

trade at an end, danger of the sinking of American vessels and the loss of American lives, by belligerent submarines, is reduced to a minimum.

Why wait for a month or longer, Senator TOBEY asks, while the Senate debates the proposed repeal of the arms and munitions embargo? Every day of that month will hold the potentiality of the sinking—or at least the seizure—of American vessels entering the war zones. He contends that it ought to be easy to obtain quick action on the so-called cash-and-carry provisions of the pending neutrality bill—and then, with that out of the way, let the Senate give all the consideration it desires to the arms embargo.

The cash-and-carry provisions of the bill are a *sine qua non*, as most of the Senators see it, if this country is to avoid "incidents" that may force America to take up arms and play a part in the present war. It is well understood that the repeal of the arms embargo stands little chance of passing the Senate without adoption of the cash-and-carry plan as it relates to all kinds of goods as well as arms and munitions. On the other hand, the cash-and-carry proposal could be put through the Senate, it is believed, with comparatively little opposition.

It is true that some of the Senators favoring repeal and some of those opposing repeal do not believe in the cash-and-carry proposal. But the great majority of them do believe that it presents the only practical way of keeping this country from becoming involved. Opposition to the cash-and-carry plan comes also from important shipping interests.

IDEA SENT TO LEADERS

The New Hampshire Senator has addressed letters to the Democratic and Republican leaders of the Senate, to Chairman PITTMAN and to Senator BORAH, of Idaho, of the Foreign Relations Committee, urging that they join in an agreement to adopt without delay the cash-and-carry provisions of the neutrality bill. Senator McNARY, the Republican leader, has fallen in with the idea. Senator BARKLEY, the Democratic leader, says he does not consider the proposal "practical."

It is obvious that, should the Tobey plan be carried into effect, the so-called isolationists and those who are prepared to go the limit to keep this country out of the war, would be in good case. No arms and munitions would be going abroad to a belligerent nation in any kind of ships, nor any other supplies in American ships.

While such a position probably would please the isolationist group, it probably would not be so pleasing to those who are intent upon repealing the arms embargo. And yet it seems entirely inconsistent for the repealist group, including President Roosevelt, to oppose a prompt adoption of the cash-and-carry plan as it relates to all those raw materials which are so much needed—and in such great quantities. For the President was quick to call to the attention of Congress in his address at the opening of the special session that it was the shipment of these raw materials in American vessels which might bring attack from submarines—even though the arms embargo remained in full force and effect.

In other words, the adoption of the cash-and-carry plan as it affects all kinds of goods would cut the ground from under one argument which has been advanced by those favoring quick action on the whole administration neutrality bill. Furthermore, the Tobey plan will give to those who support the cash-and-carry plan as well as the arms embargo an excellent opportunity to prove this to the country. Supporters of the arms-embargo repeal have tried to convey the impression that the cash-and-carry plan is a substitute for the present arms embargo, whereas, in reality, it may be merely complementary to the embargo. Indeed, it was just that until the original cash-and-carry provision of the neutrality laws expired by limitation on May 1 last.

Supporters of the arms-embargo repeal counter Senator TOBEY's proposal for quick and separate action on the cash-and-carry plan by saying, why not have speedy action on the whole measure, including the embargo? All the while, however, it is evident from a practical point of view that speedy action is not going to be had on the embargo repeal. The opening day of the Senate debate on neutrality produced just two speakers—Senator PITTMAN, who is chairman of the Foreign Relations Committee in charge of the bill, made the first statement in support of the measure, and Senator BORAH, ranking Republican member of the committee, opposing the embargo repeal. Senator TOM CONNALLY, of Texas, slated to be the third speaker, was not ready to go on when BORAH finished at 3:45 p. m., nor was he willing that Senator TOBEY should take the floor and outline to the Senate his proposal for dividing up the neutrality bill. So the Senate adjourned.

DELAY SEEN AS DANGEROUS

The tremendous interest with which the first day's debate was followed is indicative of the fact that this is going to be no brief affair in the Senate. And yet, as Senator TOBEY argues, every day that adoption of the full cash-and-carry plan is delayed, so much more danger of the country's becoming involved in the war.

Calling upon a radio address delivered by Senator PITTMAN in support of the neutrality bill—in the National Radio Forum—Senator TOBEY bolstered his argument for quick action on the cash and carry. For, said Senator PITTMAN, "between March 12 and April 2, 1917, when President Wilson asked for the declaration of war, 6 of our American merchant vessels were sunk with the loss of lives of 63 of our American seamen." Senator TOBEY's contention is that just such a thing might happen again in the next 3 weeks.

It is true that so far no American merchant vessels have suffered from German submarines. But how long will that situation last? Some say until after the Senate has voted on the repeal of the arms embargo. This may or may not be true—particularly if the vote is long delayed. But suppose the Senate acts on the embargo and repeals it; there will be a hiatus before the new Neutrality Act becomes a law. The House must act and the bill must be sent to the President for his approval. It may be a day or a week before the bill finally becomes law. In that interval, what is to prevent the sinking of American merchant vessels carrying steel, oil, and other commodities to the allied nations?

TOBEY AWAITS CHANCE

Senator TOBEY is anxious to make his proposal to the Senate immediately. He was debarred by the attitude of Senator CONNALLY yesterday, and it looks as though he would not have a chance until the Texas Senator yields the floor. At any rate, he plans to submit a motion to separate the cash-and-carry provisions from the rest of the neutrality bill and put it to a quick vote. Such a motion, of course, is debatable. It might be held before the Senate for several weeks, if opponents of such a course wished to do so, or, if the opponents believed they could defeat it out of hand, it might be voted upon without loss of time.

Mr. BARKLEY. Mr. President, am I to understand from the Senator from New Hampshire that, regardless of whether or not he holds the floor to conclude his remarks tomorrow, the motion which he has made will go over until Monday?

Mr. TOBEY. That is correct.

RECESS

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock p. m.) the Senate took a recess until tomorrow, Thursday, October 5, 1939, at 12 o'clock meridian.

SENATE

THURSDAY, OCTOBER 5, 1939

(Legislative day of Wednesday, October 4, 1939)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Z. Barney T. Phillips, D. D., offered the following prayer:

O Master of Men, Incarnate Son of God, Revealer of Life Divine: May we have Thy mind and Thy spirit as we enter upon the duties of another day, and do Thou use us just as Thou wilt and when and where.

As Thou hast taught us, may we supplant hatred with love; where there is injury, may we bring pardon; where there is discord, may we promote harmony; where doubt and despair prevail, may we restore faith and hope; and where hearts are sad, may it be ours to minister comfort.

We thank Thee that Thou hast worn our robe of human flesh and hast revealed Thyself in the common ways of life. Give us, therefore, the courage and the reverence to seek honestly and humbly the solution of the problems that perplex us, and help us to be ever watchful for new knowledge of Thee, that, through things temporal, we may discern the things that are eternal. In Thy dear name we ask it. Amen.

THE JOURNAL

On request of Mr. PITTMAN, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Wednesday, October 4, 1939, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. HILL. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Byrnes	Downey	Hatch
Andrews	Capper	Ellender	Hayden
Bailey	Caraway	George	Herring
Barbour	Chavez	Gerry	Hill
Bilbo	Clark, Idaho	Gibson	Holman
Borah	Clark, Mo.	Gillette	Holt
Bridges	Connally	Green	Johnson, Calif.
Brown	Danaher	Guffey	Johnson, Colo.
Bulow	Davis	Gurney	King
Byrd	Donahay	Hale	La Follette

Lee	Neely	Reynolds	Tobey
Lodge	Norris	Schwartz	Townsend
Lucas	Nye	Schwellenbach	Tydings
Lundeen	O'Mahoney	Sheppard	Vandenberg
McCarran	Overton	Shipstead	Van Nuys
McNary	Pepper	Smathers	Wagner
Maloney	Pittman	Stewart	Walsh
Mead	Radcliffe	Taft	White
Murray	Reed	Thomas, Utah	Wiley

Mr. HILL. I announce that the Senator from Washington [Mr. BONE], the Senator from Virginia [Mr. GLASS], the Senator from Mississippi [Mr. HARRISON], and the Senator from Delaware [Mr. HUGHES] are detained from the Senate because of illness.

The Senator from Arizona [Mr. ASHURST] is absent because of illness in his family.

The Senator from Kentucky [Mr. BARKLEY], the Senator from Nebraska [Mr. BURKE], the Senator from Tennessee [Mr. McKELLAR], the Senator from Arkansas [Mr. MILLER], the Senator from Indiana [Mr. MINTON], and the Senator from Missouri [Mr. TRUMAN] are members of the committee attending the funeral of the late Senator Logan, and are therefore necessarily absent.

The Senator from Alabama [Mr. BANKHEAD], the Senator from Georgia [Mr. RUSSELL], the Senator from Illinois [Mr. SLATTERY], the Senator from South Carolina [Mr. SMITH], and the Senator from Oklahoma [Mr. THOMAS] are unavoidably detained.

Mr. McNARY. I announce that the Senator from Vermont [Mr. AUSTIN] is necessarily absent.

The Senator from North Dakota [Mr. FRAZIER] is absent attending the funeral of the late Senator Logan of Kentucky.

The VICE PRESIDENT. Seventy-six Senators have answered to their names. A quorum is present.

TRIBUTE TO SENATOR CAPPER

Mr. McNARY. Mr. President, William Allen White, editor of the Emporia (Kans.) Gazette, on September 30, 1939, in an editorial in his newspaper, paid just tribute to the character and influence of the distinguished Senator from Kansas [Mr. CAPPER]. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Emporia (Kans.) Gazette of September 30, 1939]

CAPPER

A curious and illuminating phase of the Kansas City Star's poll of this region upon neutrality was developed when the returns from the farmers came in. In Kansas and Missouri combined, a large majority of the farmers were for the present Embargo Act. The majority did not overcome the general majority against the present Embargo Act, but it revealed an interesting thing: Missouri's farmers were for the cash-and-carry act and against the present embargo plan in the ratio of 631 for cash and carry to 272 against it. But across the Kansas line, the balloting was 635 against cash and carry to 138 for it, an overwhelming majority.

That means just one thing: The Kansas farmers are following ARTHUR CAPPER. He has no such drag in Missouri, but neither has Senator CLARK, who agrees with CAPPER. The confidence of the people of this State in the leadership of ARTHUR CAPPER is a beautiful thing to see. For 25 years he has served them as Governor and as Senator. For 10 years before that he was a political leader with a wide following. For a generation the people of Kansas have come to know, to trust, and to follow ARTHUR CAPPER.

It happens that we disagree with him about neutrality. We think he is wrong. But the fact that he carries with him the faith and trust of the Kansas farmers indicates an honesty, a courage, and a wisdom that may not be gainsaid. This little token of affectionate trust revealed by the Star's poll must be worth more to ARTHUR CAPPER than an accolade of praise from those who stand in high places. Senator CAPPER has demonstrated beyond question his right to speak for Kansas.

EXECUTIVE POWERS UNDER NATIONAL EMERGENCY (S. DOC. NO. 133)

The VICE PRESIDENT laid before the Senate a letter from the Attorney General with reference to Senate Resolution 185 (agreed to September 28, 1939), pertaining to statutory and constitutional powers that may be exercised by the Executive in emergency or state of war, which, with the accompanying list of statutes, was referred to the Committee on the Judiciary and ordered to be printed.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by the Kiwanis Club of Ensley, Ala., endorsing

the neutrality policy of the President of the United States, which was ordered to lie on the table.

He also laid before the Senate resolutions adopted by the Auxiliary to Sons of Union Veterans of the Civil War, in annual session assembled at Pittsburgh, Pa., favoring the enactment of pending legislation providing more stringent restriction of immigration, which were ordered to lie on the table.

He also laid before the Senate a resolution adopted by the New Era Organization of Ohio, Unit No. 1, Dayton, Ohio, favoring the maintenance of a policy to keep the Nation out of all wars, and the immediate declaration of embargoes upon munitions, food, clothing, and supplies of any and every sort or description that may be used by any nation in connection with war, which was ordered to lie on the table.

He also laid before the Senate a letter in the nature of a petition from R. O. Downie, of Memphis, Tenn., praying that pending neutrality legislation be amended so as to provide American industry an opportunity to sell surplus production to any buyer from the world's market who will come, or send, to our ports for his requirements, which was ordered to lie on the table.

Mr. TAFT presented memorials of sundry members of the Council of Women Opposed to Participation in Foreign Wars of Columbus and Franklin County, Ohio, remonstrating against the taking of any step whatsoever on the part of our Government which would tend to send Americans to another war on foreign soil, which were ordered to lie on the table.

DIPLOMATIC CORRESPONDENCE INCIDENT TO EUROPEAN WAR

[Mr. PITTMAN asked and obtained leave to have printed in the RECORD certain diplomatic correspondence with foreign governments containing pleas for peace by the President of the United States, etc., which appear in the Appendix.]

ADDRESS BY SENATOR LA FOLLETTE ON PENDING NEUTRALITY LEGISLATION

[Mr. DOWNEY asked and obtained leave to have printed in the RECORD a radio address delivered by Senator LA FOLLETTE, October 4, 1939, on pending neutrality legislation, which appears in the Appendix.]

ADDRESS BY SENATOR JOHNSON OF COLORADO ON PENDING NEUTRALITY LEGISLATION

[Mr. ADAMS asked and obtained leave to have printed in the RECORD a radio address delivered by Senator JOHNSON of Colorado, Wednesday, October 4, 1939, on pending neutrality legislation, which appears in the Appendix.]

ADDRESS BY SENATOR TOBEY ON PENDING NEUTRALITY LEGISLATION

[Mr. TOBEY asked and obtained leave to have printed in the RECORD a radio address delivered by him on the subject of pending neutrality legislation, October 4, 1939, which appears in the Appendix.]

LETTER BY SENATOR M'KELLAR ON REPEAL OF EMBARGO ACT

[Mr. STEWART asked and obtained leave to have printed in the RECORD a letter by Senator M'KELLAR relative to the proposed repeal of the Embargo Act, which appears in the Appendix.]

POSITION OF SENATOR MURRAY ON PHASES OF NEUTRALITY LEGISLATION

[Mr. MURRAY asked and obtained leave to have printed in the RECORD a form letter written by him setting forth his position on some phases of pending neutrality legislation, which appears in the Appendix.]

ADDRESS BY DR. MAURICE S. SHEEHY ON THE CHALLENGE OF NIHILISM

[Mr. GILLETTE asked and obtained leave to have printed in the RECORD a radio address on the subject The Challenge of Nihilism, delivered by Dr. Maurice S. Sheehy, of the Catholic University of America, on October 4, 1939, which appears in the Appendix.]

ADDRESS BY DR. NICHOLAS MURRAY BUTLER AT SOUTHAMPTON, LONG ISLAND

[Mr. THOMAS of Utah asked and obtained leave to have printed in the RECORD an address delivered by Dr. Nicholas

Murray Butler, president of Columbia University, on September 3, 1939, at Southampton, Long Island, on the theme Toward a Federal World.

COMMENT ON ADDRESS BY BISHOP SHEIL

[Mr. LUCAS asked and obtained leave to have printed in the RECORD an article from the New York Times of Thursday, October 5, 1939, concerning the radio address delivered by the Most Reverend Bernard Sheil, D. D., auxiliary bishop of Chicago, on October 2, 1939, entitled "America's Catholic Youth and Europe's War," which appears in the Appendix.]

NEUTRALITY AND PEACE OF THE UNITED STATES

The Senate resumed the consideration of the joint resolution (H. J. Res. 306), Neutrality Act of 1939.

The VICE PRESIDENT. When the Senate took a recess yesterday evening, the Senator from New Hampshire [Mr. TOBEY] had the floor and announced that he desired the floor this morning. The Chair recognizes the Senator from New Hampshire.

Mr. TOBEY. Mr. President, last night, at the conclusion of my address to the Senate, I read, if you please, in the newspapers the suggestion that because I announced that I should read excerpts from the New York Times of 1914 and 1917 into the RECORD today, I might be contemplating a filibuster. Nothing could be further from the truth. I hasten to disclaim that suggestion. This situation is too serious and too far-reaching for any man to dare to trifle with it, or to use artificial or dilatory procedure.

Mr. President, late yesterday afternoon I entered a motion that the Senate recommit House Joint Resolution 306 with instructions to the Foreign Relations Committee to report two separate bills, one embodying the features of those sections which would take our American merchant ships out of the war zones and forbid them to carry goods to any belligerent, this to be immediately acted upon by the Senate, and to report another bill containing the arms-embargo repeal provision as a separate bill, to be acted upon by the Senate immediately upon conclusion of action on the first bill.

I did this on the ground that there is extreme likelihood that unless this procedure is adopted our ships will be in danger of being sunk in the war zones at any time, and thus endanger the determination of this country to be kept out of the European war.

Supplementing my statement of yesterday, I read into the RECORD a statement made in the Washington Daily News of yesterday by Raymond Clapper, which reads as follows:

But we have at this moment no statute that keeps American ships out of the danger zone. Every day newspaper dispatches report the sinking of neutral ships in European waters, some of them carrying only such apparently peaceful commodities as lumber. Our American ships are still free to carry everything except finished munitions to any belligerent port. This is the most dangerous sort of traffic, protected only by legalistic contentions which don't save sunken ships or lost citizens. Arguments will be all the more difficult to sustain after the arms embargo is repealed.

Therefore, the most important action, insofar as keeping us out of war is concerned, is not the arms embargo but the so-called cash-and-carry provision of the pending bill. Every day's delay in enacting this provision to compel all shipments to belligerents to go in foreign bottoms is an invitation to involvement. So far as we are concerned, the arms embargo is a secondary matter. It is important in that its repeal will help the British and French. But that objective is less important to us than that we keep out of the danger zone.

This motion of mine is now pending in the Senate, and, by agreement with the majority leader, is to be voted on upon the return of the Senators who have gone to Kentucky to attend the funeral of our dear friend and former associate, the Honorable M. M. Logan.

Why wait for a month or longer while the Senate debates the proposed repeal of the arms embargo? Why? I ask. Every day holds potentialities of the sinking of American vessels in the war zones.

In this morning's New York Times there is a report of a statement just issued by Secretary Hull warning American merchant ships to avoid Atlantic and Baltic waters adjacent to the countries that are at war in Europe.

Under the special circumstances at present—

Said Secretary Hull—

it is believed advisable to warn all American merchant vessels, except American passenger ships which do not carry cargoes to belligerents and are carrying home Americans from European countries, of the special danger incurred in entering such waters.

He further pointed out that certain areas are additionally dangerous because of mines now set in the war zones—mines that do not take cognizance of the nationality of a vessel.

Mr. President, I challenge any Member of the Senate to point out an objection to the procedure that is set forth in my motion. I say once more, time is of the essence.

I make the special plea that we have a responsibility to the people to uphold Secretary Hull in his desire to get our ships out of the war zones immediately. His hands are now tied. He has gone as far as he can under the law, for there is no law which now forbids our vessels from traveling in the war zones. He needs the legal power now to forbid these vessels to travel in the war zones. Let us implement Secretary Hull in his praiseworthy desire.

If we do not adopt the motion, and if, on the contrary, we hold up enactment of the shipping-safeguard provisions of the joint resolution now under consideration until consideration of the lengthy debate on the more controversial issue of arms-embargo repeal, we shall adopt a procedure which ties the hands of our Secretary of State.

Every hour that our ships are in the war zones carrying goods to one belligerent or the other—goods which are to be used to help or harm one belligerent or the other—is an hour of danger to the determination of the American people not to be drawn into the European conflict.

Let us look to the situation of this country during the last European war at the period before we were drawn into the conflict. I maintain that there is danger of our coming to trouble with either side.

David Lawrence, in the Washington Star of last Tuesday, wrote:

It is not generally realized that the United States, in December 1914, sent one of the severest protests to the British. Diplomacy recalls interference with American shipping to neutral countries was so extensive that a serious rift in British-American relations might have resulted if it had not been for the great transgression which arose out of the attack, without warning, by German submarines on American ships and American citizens.

I have before me a copy of the New York Times of December 29, 1914, which contains a report of the unprecedented message by our Government addressed to the British, which I now read to you:

LET OUR TRADE GO, ENGLAND IS TOLD—PRESIDENT WILSON, IN FIRM LANGUAGE, ASKS BETTER TREATMENT FOR AMERICAN COMMERCE—PRESENT POLICY HARMFUL—OUR INDUSTRIES DEPRESSED BY SHIP SEIZURES, CARGO DELAYS, AND FEELING IS GROWING HERE—OUR POSITION SET FORTH—NO SEARCH WITHOUT EVIDENCE, NO SEIZING ON SUSPICION—FOOD "CONDITIONAL CONTRABAND"

WASHINGTON, December 28.—The United States Government today sent to London to be delivered to the British Government a memorandum setting forth in vigorous language the American position in opposition to interruptions and interference with American commerce by British warships. The memorandum was cabled to Ambassador Walter Hines Page, in the form of "instructions," on the basis of which he will make representations to the British Foreign Office.

An official stated tonight that, while it would not be correct to describe the communication as a protest, it did take a firm position against the British policy as illustrated in a series of incidents involving interference with American commerce.

The communication deals with interruptions to American commerce rather than with questions of contraband or the addition of new products to the British list of absolute contraband. It is a complete summary of all that has been said in previous communications, dealing with interruptions of American trade, and a full statement of the position of the American Government.

The fact that the communication summarizes previous representations lends greater weight by making its effect cumulative. The intent of the note is to show that the United States should not be made to suffer from war conditions which it had no part in bringing about.

Preparation of this important document was begun a month ago by Solicitor Cone Johnson, Counselor Robert Lansing, and Secretary Bryan, and finally during the last 2 weeks had the personal attention of President Wilson himself, who revised its phraseology with care.

The Senator from Nevada [Mr. PITTMAN] has ably pointed out the urgency of the situation in a recent radio address, in which he stated:

Between March 12 and April 2, 1917, when the President asked for the declaration of a state of war, 6 of our American merchant vessels were sunk with the loss of the lives of 63 of our American seamen. The patience of the American people was worn out. The patience of the President and of Congress ended. The Congress by an overwhelming vote declared that a state of war existed with Germany.

If there lingers a doubt in the mind of any citizen as to the cause that forced us into the World War, let him read the able speeches that were made in Congress upon the war resolution.

Mr. President, this situation is urgent, and the procedure that the Senate will adopt is important.

To illustrate how hysteria mounts in this country, how passions rise in the face of what is happening abroad in these times of sabotaging American ships—innocent ships, neutral ships, albeit in war waters—I read now, if you please, from the New York Times just prior to our entrance into the World War; and the specific date is March 15, 1917:

AMERICAN STEAMER "ALGONQUIN" SUNK; CREW UNWARNED AND AID REFUSED; SUBMARINE WAR FALLS, LONDON SAYS—SHIP SHELLED AND BOMBED—CREW RUSH TO THE BOATS OR JUMP OVERBOARD ON SUDDEN ATTACK—APPEAL FOR A TOW REFUSED—GERMANS LEAVE SAILORS IN THE OPEN SEA TO ROW 27 HOURS TO ENGLISH COAST—CAPTAIN "TOO BUSY" TO AID—VESSEL WAS OWNED HERE AND CHANGED HANDS THE DAY AFTER SAILING

PLYMOUTH, March 14 (via London).—The American steamship *Algonquin*, bound from New York for London with a cargo of foodstuffs, was attacked without warning at 6 o'clock on Monday morning by a German submarine which sank her with shell fire and bombs.

All the freighter's men, numbering 26, escaped in lifeboats, which the submarine commander refused to tow toward shore. After 27 hours in the open boats the men reached Scilly. They are now at Penzance and are to come to Plymouth tomorrow morning.

Capt. A. Norberg, commander of the *Algonquin*, said in an interview tonight:

"We saw the submarine at 6 o'clock in the morning on Monday. As soon as we saw her she started firing at us. I should say quite 20 shots came around us. While she was firing at us we got into the boats and left the steamer.

HAULED DOWN AMERICAN FLAG

"When the commander of the submarine saw that we were leaving the ship he seems to have given the order to cease firing, for it ceased as soon as we got into the boats and left the steamer. At that time the submarine had nothing but the periscope above water. In this fashion she cruised around the steamer six or seven times and then came to the surface. Those on board her launched a small boat and went on board the *Algonquin*.

"The first thing they did was to haul down the American flag and then they placed a bomb somewhere on board—I suppose in the engine room. There was a big explosion about 2 minutes after they left her, and the steamer sank in about 10 minutes. The boat was then pulled over to us and an officer asked us where we were bound for, what was our cargo, and where we had come from. We asked him if he could give us a tow toward land, but the commander replied that he was too busy, as he expected two or three more steamers.

"After the submarine left us to our own devices we commenced to pull for land. We got to land 27 hours after the ship sank.

"I could not hear whether the crew of the submarine fired shrapnel at us or not, but there were plenty of splinters falling about. We certainly were in extreme danger from the firing, and we made all the haste we could to get into the boats. There was absolutely no warning. Their first shot fell a little short, but each one afterward came a little nearer until at last they got the exact range. I think the fifth shot hit the steamer's side. All the time we were on board we could hear shots whistling over our heads.

"I am an American citizen," the captain added grimly.

I now read an editorial from the New York Times which bears upon this sinking:

WORSE THAN ANY GERMAN PLOT

A German ship of war fired on the American flag 3 days ago. It destroyed an American ship carrying American goods. An American crew was on board. The German commander gave them no warning, made no offer of assistance after they had taken to the boats.

Going a little further with the sinkings in cumulative form, I now read to the Senate an excerpt from the New York Times of Monday, March 19, 1917:

THREE AMERICAN SHIPS SUNK, 1 UNWARNED, 22 MEN MISSING; U-BOATS REFUSE AID; MILITIA DEMOBILIZATION IS STOPPED AND RAILROAD STRIKE ABANDONED ON PRESIDENT'S ORDER—PATROL PICKS UP SURVIVORS—"CITY OF MEMPHIS" CREW IS ABANDONED AT SEA IN 5 OPEN BOATS—"VIGILANCIA" SAW NO U-BOAT—29 OF HER 43 MEN LANDED AT SCILLY ISLANDS AFTER SHE IS TORPEDOED UNAWARES—TANKER "ILLINOIS" ALSO LOST—OIL SHIP AND "CITY OF MEMPHIS" WERE RETURNING TO UNITED STATES IN BALLAST

LONDON, March 18.—The sinking of the American steamships *City of Memphis*, *Illinois*, and *Vigilancia* by German submarines was announced today. Fourteen men from the *Vigilancia* are missing, as are 24 men from the *City of Memphis*. The crew of the *Illinois* was landed safely.

(Later advices which were received by the State Department at Washington said that of the 57 men on the *City of Memphis* 15 had landed at Schull and 34 were on an Admiralty vessel, which was searching for the 8 others.

The *City of Memphis*, which left Cardiff Friday in ballast for New York, was sunk Saturday. When she left port the steamship had the stars and stripes painted on both sides. She encountered a submarine about 5 o'clock Saturday evening. The German commander ordered the captain of the steamer to leave his ship within 15 minutes.

The entire crew entered five boats, and the submarine then fired a torpedo which struck the vessel on the starboard side, tearing a great hole through which the sea poured. The steamer settled down quickly and foundered within a few minutes.

THREE BOAT CREWS PICKED UP

In the night the boats became separated, and at 4 o'clock Sunday morning three boat crews were picked up by a patrol vessel and landed. These boats contained 33 men, mostly Americans. All of the officers were Americans. The officers believe that the other boats will be rescued.

Third Engineer Thompson of the *City of Memphis*, in an interview with the Central News, said that the submarine fired a warning shot for the steamer to slow down, and subsequently signaled for her to stop and for the crew to abandon the ship. Ten or 11 shells were fired at the vessel, which began to sink. Then followed a terrific explosion which caused the vessel to tremble all over, and within 20 minutes she sank, stern first. The crew suffered a great deal from exposure during the night.

Thompson said the ship was on charter to discharge her cargo at Havre. From Havre she went to Cardiff, and the skipper, knowing he was in the danger zone, kept the flag, which was yards in length, flying at the masthead. Nobody seems to have expected an attack.

Captain Borum briefly consulted with the officers after the Germans ordered him by megaphone to leave the ship because it was intended to sink her, said Thompson. All agreed that there was no alternative. After describing the sinking of the steamer, Thompson continued:

"When the ship had been destroyed the German commander steamed to our boat and asked for the captain, but none of our lads answered him. He then went from boat to boat until he found Captain Borum, who briefly conversed with him. I do not know what was said.

FLARE LIGHTS BRING RESCUERS

"The weather was not too bad, but there were heavy swells. We kept the boats together, and during the evening we rowed together toward the coast. The night closed with a biting wind, and some of our young chaps were very sick. Our flare lights were seen between 3 and 4 o'clock in the morning by the patrol vessels, which rescued two boats' crews. The other two had become separated. We lost everything we possessed."

The *Vigilancia* was torpedoed without warning. The submarine did not appear. The captain, first and second mates, first, second, and third engineers, and 23 men of the crew have been landed at the Scilly Islands. The fourth engineer and 13 men are missing.

The *Illinois*, from London for Port Arthur, Tex., in ballast, was sunk at 8 o'clock this morning.

I now read from another page, the date being March 19, 1917, an editorial:

GERMANY'S ACTS OF WAR

By the repeated acts of Germany a state of war exists between that country and the United States. No declaration has preceded it. The acts of Germany are not to be looked upon merely as a provocation to war; they are war itself. It lacks only legal recognition to establish its existence.

Reports of the sinking of three American ships by German submarines will be read by the people of the United States this morning—the *Vigilancia*, the *City of Memphis*, and the *Illinois*. Two of them were westward bound in ballast. They were all trading vessels, of American ownership and registry, manned by Americans. Some of the members of these crews have been saved, many others are missing. These, too, may yet be rescued, but there is grave fear that American lives have been lost. In one case at least the submarine that did the work was not seen by the ship's officers or crew.

The destruction of these American ships, after the warnings we have given by word and act, dispels all doubt as to Germany's intentions. It is impossible longer to entertain the belief that she will

try to avoid war with the United States. She is firing upon our ships, sinking them, destroying or endangering the lives of our citizens. This is the very essence of war; these acts are utterly incompatible with the wish to avoid it.

What has the Imperial Government—in particular, what have the German people—to gain by war with the United States? The men who direct the war policy of the empire exhibit the recklessness of madmen, the depravity of irreclaimable criminals.

I now read from the New York Times of March 23. The headline is as follows:

AMERICAN SHIP SUNK, 21 MEN LOST; WILSON PREPARES WAR MESSAGE; GARDEN MEETING FOR VIGOROUS WAR—MEDIATION HINT REJECTED—DESTROYED IN "SAFE ZONE"—TANKER "HEALDTON" TORPEDOED WITHOUT WARNING IN NORTH SEA—THIRTEEN AMERICANS IN CREW—SEAMEN PERISH WHEN BOAT CAPSIZES AND ANOTHER DIES OF HIS INJURIES

I read further:

The American steamer *Healdton*, bound from Philadelphia for Rotterdam with petroleum, was torpedoed without warning at 8 o'clock last night.

The crew left the ship in 3 boats. One boat, containing 7 men, was picked up by a Dutch torpedo boat, and a second, with 13 men, was rescued by a Dutch steam trawler tonight.

The third boat, with 21 men, was lost.

There is one more article that is worthy of being read to establish this record. It is from the New York Times of March 24, and is as follows:

War for the defeat of Germany now favored by Wilson Cabinet; seven Americans lost on *Healdton*. Tanker's lights a target. Captain says a torpedo struck her. Ship's name shone. Oil cargo burst in flame. Trawler at a great distance; mistook glow in sky for aurora borealis. Found survivors helpless. Twenty drowned and one dead of exposure; U-boat left crew to perish.

That was the record before we went into the World War in April 1917. American public opinion mounted and mounted, and the flames of hysteria and passion, and justified passion, mounted high. History will repeat itself, and the only remedy for such a condition lies, in my honest judgment, in the immediate consideration of the safeguard provisions of the pending joint resolution, taking up the repeal provisions later.

Further incidents are reported in the subsequent issues of the New York Times, and further editorials, rapidly mounting to the point of hysteria, and demanding that the Americans send their boys to France to fight on a foreign battlefield in a war the so-called peace treaty of which sowed the very seed for the dictatorships which have sprung up in Europe and made impossible a permanent peace in Europe—a war not to save democracy but to preserve territorial power of certain European nations.

The greatest tragedy about all this is that all the truth does not come to light in such times of confusion and emotion. Reports are made to inflame our minds in favor of one nation against another. It is only natural that the European countries would like to draw us into war, particularly those who fight to maintain great territorial power; but we of America owe a responsibility to Americans first. Whatever legislation we pass here should be by Americans and for Americans.

The bare truth regarding the incidents which drew us into the last World War was not known in many instances until after the war was over and the Europeans no longer needed us, and had sent us home, and refused to pay their war debts.

Yesterday on the Senate floor I described the experience of the then Senator La Follette, father of our associate and colleague, who was called a traitor and threatened with expulsion from the Senate because he had the courage to ask for records at the time of the sinking of the *Lusitania*. As Senators know, the State Department refused to show him the bills of lading of the *Lusitania*, in order that he might show that the contention that she was a peaceful ship on a peaceful mission was untrue. It was not until after the war that Great Britain's Winston Churchill, now First Lord of the Admiralty, admitted that the *Lusitania* was carrying a heavy cargo of munitions bound for England. It was not until after the World War was over that Great Britain admitted, according to Professor Borchard, professor of international law of Yale University, in an article in the Boston Transcript, that during the World War, Great Britain's ships flew the American flag, and that the American flag was painted on the sides of Britain's merchant vessels to deceive the enemy and

justify the practice as a war ruse. Naturally, once Germany became aware of England's trick, this action of Great Britain placed our American merchant vessels in jeopardy, for through England's action the American flag no longer could be taken as a guaranty that a ship flying American colors was a ship of a nation at peace rather than an enemy vessel carrying munitions of war to an enemy fort.

Mr. President, at this moment many American merchant vessels laden with cargoes bound for one or the other of the belligerents are slipping through the European war zones. Our experience of the last war should be a lesson to us. The administration is urging passage of those sections designed to protect us from being drawn into the war through the ever potential danger of the sinking of American vessels in the war zones. We cannot afford to keep America in jeopardy by holding up action on the safeguard sections of the joint resolution until, after many weeks and perhaps months, the debate shall be concluded on the controversial issue of repeal of the arms embargo.

Let us forget politics and choose a course which will get our ships out of the war zones immediately. I earnestly make this plea to this body at this time, and I urge that Senators vote on my motion with the same sincerity and the same aim which motivated me in drafting the motion.

I was told last night, and I believe the same statement appeared in the press that one of the leaders of the Senate, if you please, an administration leader, said, "Tobey's motion is going over until Monday. I think we can sidetrack it."

Let me say to that leader, and to anyone within the sound of my voice, if you sidetrack this motion, which is a sane, honest, sincere motion, with the objective of reducing our chances of being involved in a European war, and if you send it down a sidetrack, look out. There may be a cargo of dynamite at the other end of the sidetrack which you will bump into.

I am tremendously in earnest, never more so in my life. There is not a particle of partisanship in what I am attempting. I consulted with no group. Just my son and I, in our room together, collaborated in attempting to reach a decision as to what we should do in this great crisis as a patriotic contribution.

If my colleagues will pardon a personal reference, many, many years ago I learned something which I committed to memory; and not only did I commit it to memory, but I hid it in my heart. I have had some little experience in public life in various activities, and any man who has been in public life knows what one runs up against many, many times. In my deliberations last week I turned back to what I learned as a boy from Holy Writ, and if the Senate will pardon me I will repeat it:

If any of you lack wisdom, let him ask of God, that giveth to all men liberally.

I have sought that Divine guidance heretofore, and I am seeking it now. I hope and pray that we may act aright. My motive is sincere. Why cavil? Why talk about putting the motion down a sidetrack, sending it away? Here is an opportunity for all groups to unite on one safe course, to reduce to a minimum the chances of America being involved in a foreign war, and to stop the gap which now exists in America's offensive for peace.

Mr. NYE obtained the floor.

Mr. PITTMAN. Mr. President—

The PRESIDING OFFICER (Mr. HILL in the chair). Does the Senator from North Dakota yield to the Senator from Nevada?

Mr. NYE. I yield.

Mr. PITTMAN. Mr. President, being in charge of the pending joint resolution, on behalf of the committee I wish to say that there was a kind of a general understanding in the Committee on Foreign Relations that the debate would be facilitated and made more valuable if it could be conducted in an orderly manner. One result of that was the practice adopted in the debate with regard to not interrupting a prepared statement. I think that the leader on this side and the leader of the minority were attempting to arrange the debate so that each side might be heard alternately, as nearly

as practicable, and that the publicity should be as fair as possible, and I think I know that the majority leader and the minority leader, after conferring with others, have attempted each day to make a program for the next day.

I was handed a list of the order for today by the majority leader, the senior Senator from Kentucky [Mr. BARKLEY], before he had to leave the city to attend the funeral of the late Senator Logan. I spoke to the minority leader this morning, and he asked whether this order was to be followed, and I stated that, so far as I was concerned, it was. The order was written "Senators OVERTON, NYE, and SCHWELLENBACH." It would seem quite embarrassing to those who attempted to arrange the order of the debate on this side if it were not to be maintained on both sides.

I have stated to the leader of the minority that at least during the absence of the majority leader I would not feel that I would be justified in attempting longer to arrange any order of debate. The order of debate today was, as I have stated, the Senator from Louisiana [Mr. OVERTON], the Senator from North Dakota [Mr. NYE], and the Senator from Washington [Mr. SCHWELLENBACH]. The Senator from New Hampshire [Mr. TOBEY] occupied 30 minutes of time this morning. He had a right to do so, of course. Any Senator who is recognized first has a right to take the floor. However, I think there was an attempt by the leader on the minority side to arrange for the time to be taken by the Senator from New Hampshire. It was understood yesterday that he desired only 10 minutes or 15 minutes. We thought he had taken that much time on yesterday, but we found he wanted 30 minutes this morning. Of course, he had a perfect right to take the time. Any Senator has a right, when he is recognized, to speak as he sees fit. There is no power whatever in the leadership to change that. Therefore, it seems rather embarrassing to attempt to do so. It occurred to me that the senior members on the Committee on Foreign Relations, who have studied this matter, probably would be allowed, by unanimous consent of the Senate, to speak in their order, if they saw fit to do so, by reason of their greater familiarity with the subject, and to a certain extent that procedure has been followed so far. Now I see that it is impossible to carry out even the agreement of yesterday in regard to today.

Mr. NYE. Mr. President, I am very sorry if there has been any embarrassment occasioned by reason of a change in order which has been effected during this hour. I am sure that it occasions no embarrassment to any of those who were scheduled to occupy the floor today, for I discussed this special order with the other Senators who were listed to speak today, and they quite approved it. If there is any plan or any order that is upset by this arrangement of the last hour, of course, I shall be most happy to revert to the order which was scheduled.

Mr. OVERTON. Mr. President, if the Senator will yield—

Mr. NYE. I yield.

Mr. OVERTON. I am very happy to say that I have no objection to the Senator from North Dakota taking the floor at this time. I understand he wishes to make a short statement of some 10 or 12 minutes in length, and that then I shall follow him. It is of no concern particularly to me, and I am quite sure it is of very little concern to the Senate, when I speak, or if I speak at all. I am subject to the wishes of the leader on our side.

Mr. PITTMAN. Mr. President, I have no objection if the Senator from North Dakota wishes to speak first or if he wishes to speak second, and I am inclined to believe, from the statement of the Senator from Louisiana [Mr. OVERTON], that the Senator from North Dakota wishes to speak first and second. Of course, I do not know. It may be all right to speak five or six times a day on the pending subject.

Mr. NYE. Mr. President, there is much to be said for what the Senator from New Hampshire [Mr. TOBEY] has proposed; much to be said for the end which he seeks to serve.

I had thought to embody in perhaps one effort here on the floor my thoughts and views upon the pending program of

proposed revision of law and policy intended to help our country stay out of other people's wars. However, I speak but very briefly today to a single thought which it seems to me merits emphasis at this hour, and will ask a hearing by the Senate on other points at a later time, when the Senate is not crowded by those who want its immediate attention.

Our respected colleague, the senior Senator from Idaho [Mr. BORAH], speaking in the Senate Chamber Tuesday, put his finger on the immediate challenge confronting us when he said that there is nothing ahead of America but hell if we repeal the existing arms embargo. History, experience, and reason dictate that that is the thing to anticipate if by any chance that very important safeguard to American peace and security, the arms embargo, should be wiped from the statute books.

Many Senators, to say nothing of many other people of the country, have demonstrated a real confusion respecting the issue which is pending in our present consideration. Out of that confusion comes a will mistakenly to classify those of us who take one position and another on the proposals involved in House Joint Resolution 306, which has been reported to the Senate by its Committee on Foreign Relations. We are classified as being either for or against all the features embodied in that measure. No classification could be more unfair, and I want the record made clear as to my own position, and in making that record, I am confident that I speak the mind of others whose position upon the question is not unlike mine.

The question before us now is not one of being for or against the cash-and-carry plan. It is one of being for or against the arms embargo.

The proponents of arms-embargo repeal have left, and are continuing to leave, the emphatic impression that we cannot do those many things which are desirable to insure our American peace and security until we have first of all accomplished repeal of the existing embargo law. That impression is not based upon anything remotely resembling substantial ground.

There can be quick passage, through the Senate and through the House, of legislation to provide a cash-and-carry provision to cover all commerce which is not covered by the existing embargo law. I have wanted that kind of law for a long time, and have proposed it and stood with others here in urging its enactment into law. I now stand ready to do anything possible to bring about the passage of that kind of legislation, but not if the repeal of the arms embargo is the price to be paid for it.

With scarcely a moment of delay, Congress will gladly enlarge upon existing law as relates to the question of when and where ships and American citizens shall and may go. I have long expressed desire for and urged that kind of law, and will give my most earnest support to those who will lead in accomplishing it, but not if the cost is so high as abandonment of the arms embargo.

With little or no delay in debate, Congress will do whatever might be done to strengthen that existing law which is intended to help us keep out of other peoples' wars. I want those strengthening amendments and will gladly join in accomplishing their enactment into law, but not at the cost of losing the arms embargo.

But those who want embargo repeal take the position that these other things cannot be done until the embargo is repealed. That is a false premise; it misleads the people and it jeopardizes the peace of the United States.

I hope to see both the arms embargo and the cash-and-carry plan made the law of the land. They are in no wise, in no degree, in conflict with each other. Instead, they are both essential if American purpose to stay out of other peoples' wars is to be well served. Though they are both essential, the arms embargo is so much more so that its abandonment in exchange for the cash-and-carry plan is not to be considered. There is no good reason why we should not have both the arms embargo and the cash-and-carry provision. We will have both if the expressed purpose of the great majority in the Senate is pursued and a semblance of neutrality is to be preserved.

Personally I should like to see a wartime embargo upon our statute books that would cover all goods, anything and everything, and thus foreclose against the slightest danger of a trade with nations at war which would invite the incidents that might take our country to war. This would cost us some foreign trade, to be sure, but not more than, indeed, I am sure not so much as we could newly develop with those Latin American countries with whom the warring nations will have to abandon their trade. However, it would appear wise to acknowledge now that a complete embargo is not possible of attainment in our present legislative effort on neutrality. There are, to be sure, a considerable number in the Senate who stand ready today to go the full route of abandoning all trade with nations at war, thus getting away from any need for embargoes, cash-and-carry plans, or credit-and-carry plans. But, abandoning the thought of the possibility of enacting a complete embargo, the challenge confronting our country in this hour is one which we must approach through other avenues.

It is generally acknowledged that American trade in arms, and other commodities as well, with nations at war, does invite and does constitute a danger that could readily take America into war.

The arms embargo forbidding exports of arms, ammunition, and instruments of war, directly or indirectly, to nations at war was born of a desire to avoid that danger to which I have referred. It was born of a further desire to take our country out of that unholy business which makes it the arsenal for nations when they are at war. Personally I wish we might get out of that business in peacetime as well as in wartime. This wish is not new with me. I have pending here in Congress formal legislative proposals to accomplish that end.

The cash-and-carry idea springs from a wish to prevent commerce and trade in other contraband than that covered by the embargo from risking the searches, seizures, sinkings, and our ultimate embarking through that corridor onto the well-known road to war. None can discount this chance and danger. This chance and this danger have been recognized by many of us in the Senate for many years. The cash-and-carry plan is not a newly developed theory, but is as old as is the consideration given to neutrality legislation starting in 1935. It was advanced by those Senators associated with me on the Munitions Committee. The dangers to which I refer were met by a cash-and-carry provision in our neutrality law up until last May, when that provision in the law was permitted to expire by those who now advance it as the one and only way in which we can meet the dangers challenging us.

We proposed last spring—and I believe the Senator from Missouri [Mr. CLARK], the Senator from Washington [Mr. BONE], and myself were the coauthors of the proposed amendment—renewal of this provision with amendments to make it more effective. It is altogether desirable that the provision be reincorporated into the law.

But in the name of neutrality, in the name of fair play, in the name of American security against war, we cannot accept any trade of neutrality or keep-us-out-of-war provisions which barter out of existence and off our statute books the existing arms embargo—that weapon which goes so far to prevent our being drawn into war easily.

I make this declaration alone in the hope that there will be clear and definite understanding of my willingness to do these other things which arms-embargo repeal advocates argue for—a willingness I know is shared by many more in this body opposed to repeal of the arms embargo—things to strengthen and to fortify our determination to keep out of war.

Now, let me analyze in brief what is asked for in the pending proposal to change our existing neutrality law:

First, of course, is the repeal of the arms embargo.

Second is the institution of a so-called cash-and-carry plan—which is, strictly speaking, neither cash nor carry—to be applied as respects all commodities exported from the United States, including arms, ammunitions, and instruments of war? I must in fairness acknowledge in this connection that in

certain particulars the proposed so-called cash-and-carry law is an improvement over the cash-and-carry provision which was in the law up to its expiration in May of this year.

Third. A provision forbidding Americans to travel on the vessels of belligerent states.

Fourth. A provision forbidding American vessels engaged in foreign commerce to be armed.

Fifth. A provision forbidding loans to nations at war.

Sixth. A provision granting to the President the power to define combat areas and to proclaim such rules and regulations as may be prescribed for any citizen or vessel of the United States to proceed into or through such combat areas.

House Joint Resolution 306, as amended by the Senate Foreign Relations Committee, provides further features which are more or less common to our existing neutrality law.

So much for the proposal now before us.

Now, let me point out that three of the foregoing features of the proposed legislation are already part of the law of the land, namely, the ban on loans, the prohibition against Americans traveling on belligerent vessels, and the prohibition against the arming of American merchantmen. In addition to these, the present legislation contains the arm embargo, which I consider an absolutely essential provision in any neutrality law. Further, that legislation had a "carry" provision, which expired last May and whose reenactment in stronger form I would be most happy to support.

I point this out only to establish with greater clarity the fact that what is now being promised in exchange for repeal of the arms embargo is already largely a matter of law upon our statute books. These are safeguards the people already have. They do not depend upon the passage of House Joint Resolution 306. There is no reason why a strong "carry" provision should not be added to the existing provisions of the law.

I submit that what is to be gained by way of strengthening our keep-out-of-war laws in the pending proposal is not in one small part worth abandonment of the existing arms embargo. I repeat that we can have such improvements as have been incorporated in the proposal before us without abandoning the arms embargo.

Why do away with one great safeguard for another, when we need and can have both safeguards; namely, the arms embargo and a cash-and-carry plan to take care of all other commodities entering into export trade? We can have them both by an overwhelming approval in Congress when and if the advocates of repeal of the embargo will tolerate inclusion in the existing law of the land of such a cash-and-carry plan.

Later on in the debate I shall wish to discuss at some length the full implications of the proposal to repeal the arms embargo. For the moment, however, I limit myself to a declaration of my support for strong cash-and-carry provisions in addition to the arms embargo.

I believe the authors of House Joint Resolution 306 will have similar support from other colleagues in the Senate once they abandon their determination to insist on repeal of the arms embargo before allowing consideration of the cash-and-carry proposition.

I insist that we need both the ban on arms, ammunition, and implements of war and the cash-and-carry provision respecting other commodities if we are to do our utmost to keep the United States out of Europe's war. In conclusion, I wish to declare again that there is a warm welcome and a want for cash and carry as a supplement to, but never as a substitute for, the arms embargo.

Mr. OVERTON obtained the floor.

Mr. HOLT. Mr. President, will the Senator yield in order that I may suggest the absence of a quorum?

Mr. OVERTON. I yield.

Mr. HOLT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Donahey	King	Reed
Andrews	Downey	La Follette	Reynolds
Bailey	Ellender	Lee	Schwartz
Barbour	George	Lodge	Schwellenbach
Bilbo	Gerry	Lucas	Sheppard
Borah	Gibson	Lundeen	Shipstead
Bridges	Gillette	McCarran	Smathers
Brown	Green	McNary	Stewart
Bulow	Guffey	Maloney	Taft
Byrd	Gurney	Mead	Thomas, Utah
Byrnes	Hale	Murray	Tobey
Capper	Hatch	Neely	Townsend
Caraway	Hayden	Norris	Tydings
Chavez	Herring	Nye	Vandenberg
Clark, Idaho	Hill	O'Mahoney	Van Nuys
Clark, Mo.	Holman	Overton	Wagner
Connally	Holt	Pepper	Walsh
Danaher	Johnson, Calif.	Pittman	White
Davis	Johnson, Colo.	Radcliffe	Wiley

The PRESIDING OFFICER. Seventy-six Senators have answered to their names. A quorum is present.

Mr. OVERTON. Mr. President, in speaking on the pending joint resolution I do not expect to contribute any new thought, and I do not flatter myself that I shall be able to influence the judgment of any of my colleagues. My chief purpose is to place in the RECORD some of the reasons that have prompted me to take the stand I have taken and to justify the faith that is within me.

I do not wish, in the course of my remarks, to say anything that will reflect upon the motives, the character, or the integrity of my colleagues. I entertain for them all the very highest regard and profound respect. Nor do I wish it to be understood when I differ with the majority of the Foreign Relations Committee that I do so because I have not confidence in their ability, in their knowledge, in their thorough study of this issue. On the contrary, Mr. President, I am differing with the Foreign Relations Committee today mainly because the Foreign Relations Committee of today is differing from the Foreign Relations Committee of yesterday. In 1935 the Foreign Relations Committee reported to the Senate a neutrality resolution. If I needed to be convinced that all the provisions of that neutrality resolution were sound, I would have been convinced by the report made by the committee and by the proponents of that resolution in the comments which they then made upon the floor of the Senate and in other places.

They took me, Mr. President, out upon the ship of neutrality. They set sail in a calm and pacific sea; the ship was being guided by steady hands and was floating on an even keel; and then, all of a sudden, the winds rose, the gales of war swept from European shores, the billows lifted themselves on high, and the waves are pounding against that good, strong, and stout ship of neutrality which the Foreign Relations Committee gave us for our safe voyage. The ship is still sturdily breasting the billows. But, alas and alack, in the midst of the storm I look around in vain for the captain, for the first mate, and the other officers of our vessel. I find that they have gone. I, with others of my colleagues, am still standing on that good old ship, holding fast to the rudder of the arms embargo. It may be that rudder will be wrenched from our hands. But when I look around me and see that my captain, the chief mate, and the other officers have left the boat, when I see that they have embarked upon another ship of so-called neutrality, and, instead of steering the course which they then charted for us, they are pursuing some other course, I fear they may steer us not into the haven of peace and neutrality but into the port of war. So, as I stand upon the deck of our good, old neutrality ship, I feel much like the boy who "stood on the burning deck."

Mr. President, I stand where the Foreign Relations Committee placed me in 1935. I stand where they placed me again in 1936 and 1937.

The chief purpose of any neutrality resolution we may enact is the avoidance of war for America. Such legislation has the combined purpose of neutrality and of war avoidance. We had one bitter experience in regard to becoming involved in a European war. We expended over \$40,000,000,000. We sacrificed the lives of over 100,000 of the flower of our young manhood. We have filled our veterans' hospitals with thousands of others, maimed, diseased, bereft of reason. We entered that war with the loftiest ideals.

We entered, as it were, upon a holy crusade to make the world safe for democracy, to put an end to all wars, and to preserve the rights of all nations, great and small. Notwithstanding our sacrifices of blood and treasure, when our representatives gathered at the peace conference and around the council table at Versailles we discovered that the high ideals for which young American manhood had fought and died upon the battlefields of Europe were thrown into the discard, and that greed and avarice sat like ghouls at the council table.

Mr. President, I want no more European war, and I take it that no Senator of the United States wishes another European war, because if we do enter into another European war it will be more disastrous than the last one. We obtained as our chief legacy from our last involvement in European quarrels an accumulation of dishonored and unpaid debts of over \$11,000,000,000, an 11-year depression with all of its tragic problems of unemployment, unbalanced budgets, and a mounting national debt of over \$40,000,000,000. But the next war, in my humble judgment, will cost us infinitely more than the last one in blood and in treasure. Nay, it may lead us on the road to bankruptcy. It may go further than that. It may saddle us with a home-made dictatorship. Whoever cherishes our civilization, whoever cherishes our institutions, our principles of liberty, of freedom of speech, of freedom of assembly, and all the glorious fundamental safeguards of American democracy, ought to shudder and look with horror upon the prospect of American involvement in another European war. No; we should do all that we can to avoid it, and I am just enough to say that I think we all have a common purpose in view.

What did we do in 1935? We enacted the arms embargo as a national policy. We reaffirmed it in 1936 and 1937. We took that action on three separate occasions. By virtue of the arms embargo, we said to all foreign nations engaged in war, "We shall not furnish you with the instrumentalities with which to prosecute war. We shall not supply you with the instruments of death and destruction." We are now saying to the nations of Europe, just beginning their terrific mass murder, "We shall not contribute anything toward increasing the horrors of that war and toward converting Europe"—as it will ultimately be converted if the war continues—"into a tremendous slaughterhouse of humanity."

It was a clear doctrine; it was a sound doctrine, in my opinion. We made that declaration not simply to France and to Great Britain and to Germany, but we made it to all nations, great and small; to all nations, strong or weak. The Senator from Texas [Mr. CONNALLY] well said, in the course of his brilliant argument yesterday, and the President of the United States has voiced the same thought, that we cannot undertake to rectify the discrepancies which exist between different nations in respect to their geographical situations, in respect to their natural advantages, in respect to which one is weak and which one is strong. We here in America cannot undertake to change the boundaries of Europe so that all nations may be possessed of equal wealth and equal population and equal strength and equal military power. We cannot do it by neutrality legislation, and we cannot do it otherwise. But what we can do is what we did in the embargo provision of our neutrality resolution, and that was to say to all nations, with the sole exception of the South American republics, "Regardless of your strength, regardless of your weakness, regardless of your situation, if you do become involved in war, we stand for peace, and we are not going to assist you in the art of bloody massacre by exporting or selling for export arms, ammunition, and implements of war."

If that was a sound doctrine then, why is it not now? Why any change? Why any modification? I not only stand for the arms embargo but I stand for all the other safeguards, with perhaps some modifications, which the pending joint resolution throws around our neutrality and our avoidance of war. I have no quarrel with the Committee on Foreign Relations concerning these added safeguards, but I cannot for the life of me see, as the Senator from North Dakota pointed out this morning, why, in the interest of peace for

America, in the interest of peace for humanity, as a discouragement to war, we cannot have a combination of both the embargo on arms and the cash-and-carry plan as to all other commodities.

At the outset of this debate, when the Senator from Nevada [Mr. PITTMAN] had the floor, I undertook by interrogatory to bring out from him that there was nothing inconsistent in pursuing such a policy; that we could retain the embargo on arms and go on with the rest of his measure. I think perhaps the Senator did not understand me, and it was no doubt due to my lack of clear expression, but I think that the Senator from Nevada will agree with me that there is nothing inconsistent, there is nothing irreconcilable, in a combination of the embargo on arms and the cash-and-carry plan as to all other commodities.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. PITTMAN. I think I did understand the Senator. I think possibly my lack of clarity may have caused the Senator not to understand me.

Mr. OVERTON. If the Senator was not clear, it was the first time in his Senatorial career that he was not.

Mr. PITTMAN. I stated very emphatically that in 1935 and in 1937 I considered that we had a perfect legal right to embargo anything we desired to embargo. I think I stated we could in a law impose a cash and carry or any other restriction on our citizens. I did state, however, that I had changed my view with regard to the policy of the embargo by reason of my opinion that it could not now be administered in an equal manner as between the belligerents. It was purely a matter of policy.

I think possibly I was misunderstood by the distinguished Senator from Idaho, perhaps, when I stated that the embargo provision was probably the only departure in our measure from international law. I have never yet contended that it was a violation of international law. Under international law a neutral government which permits its nationals to sell to belligerents is not guilty of an unneutral act. But that is international law, and while we have the legal right to embargo anything we see fit to embargo, to that extent the provision is a departure from international law, or presents an exception to it.

Mr. OVERTON. Mr. President, in response to the Senator from Nevada I will say that my knowledge of international law is meager compared to his, but it is my view that we can do anything we wish to do here toward restricting our trade, toward placing an embargo upon our activities, without violating any rules of international law. We could embargo all the produce of this country from shipment to belligerent nations, and we would not be violating international law.

Mr. President, I ask the question, if it was a sound policy before, if it was a sound policy at the time the Embargo Act was enacted, why is it not a sound policy now? I shall not undertake to present my own reasons why I thought it was a sound policy then. I think I will place myself upon firmer ground if I bring before my colleagues, and the assembled audience sitting in the galleries here, the evidence of those who know more about the subject, infinitely more, than I do.

I wish to refer first to what the distinguished and able senior Senator from Nevada [Mr. PITTMAN], chairman of the Committee on Foreign Relations of the Senate, had to say on February 18, 1936. The first arms embargo provision was adopted by us in August 1935, so that the Senator from Nevada had had some 6 months in which to deliberate and to consider the wisdom of this provision. Did his reflections then cause him to have some misgivings as to the soundness of the policy then adopted? I think not, because upon the floor of the Senate on February 18, 1936, as appears in the CONGRESSIONAL RECORD, page 2355, the distinguished Senator from Nevada, referring to the pending neutrality joint resolution, stated:

If this measure is enacted into law, it will include two of the strongest provisions that could be enacted.

"Two of the strongest provisions that could be enacted." What are they? The Senator answers the question:

One is an absolute embargo against the exportation of arms, ammunition, and implements of war, on the one hand, and obtaining of credits, on the other hand.

Could a declaration be more emphatic? That was not an idle statement. That was a statement made after the neutrality joint resolution, carrying an arms embargo, had been on the statute books for over 6 months.

On the same day and upon the same occasion the distinguished chairman of the Committee on Foreign Relations stated:

The existing law prohibits the sale or the purchase for export or the exporting of arms, ammunition, or implements of war to any belligerent country or to any neutral country for transshipment to a belligerent country or for the use of belligerents.

What did the Senator from Nevada, the chairman of the Committee on Foreign Relations, who had made a prolonged study of this question of neutrality and of the avoidance of war, have to say then about that provision? This is what he said:

I think that in itself is the most powerful protection we could possibly give.

So, according to the view of the Senator from Nevada at that time, the arms embargo was the most powerful protection we could obtain and it was one of the strongest provisions which could be enacted.

I wish now to refer to a magazine article written by the Senator and which appeared on February 1, 1936. Again I wish him to understand that I quote from him because I do consider him one of the foremost of our statesmen, and one who, by reason of his connection with the Committee on Foreign Relations, has been in a better position, perhaps, than anyone else to give sound advice in respect to the grave issue which confronts this country at this hour. I quote from an article which the Senator contributed to the magazine *To-Day* in which he said:

I have had the opportunity to read some severe criticisms of the proposed act—

He was referring to the Neutrality Act—

In none of these criticisms have I discovered any opposition to the embargo upon arms, ammunition, and implements of war. In fact, most of these critics approve such embargo.

I present now another statement and argument made by the Senator from Nevada. It is contained in the same magazine article. He declared:

It is charged that the bill aids the strong and penalizes the weak.

Let me digress to say that we hear that argument today from the proponents of the repeal of the arms embargo.

It is contended the Arms Embargo Act should be repealed because the charge might be leveled against us that by the arms embargo we are aiding the strong and we are penalizing the weak. If that be true is it a proper argument? Not so, not so according to the views then entertained by the Senator from Nevada.

I continue to quote from the Senator's statement:

Any exports to belligerent countries during a war must have this effect. The belligerent, or belligerents, having control of the seas will prevent any exports reaching the belligerents weaker upon the seas. How do we injure the weaker, therefore, by permitting fewer exports to all of the belligerents?

Is that not persuasive? Is that not almost conclusive of the issue in this debate?

I continue to quote:

We sympathize with the weak, but it is better for us that they suffer than that our citizens be dragged into war unnecessarily.

I take that view today. As an American, and as one whose forebears have been upon this side of the ocean for two and one-half centuries, I am not so much concerned with the European situation as I am concerned with what may happen to America in the midst of this conflagration which threatens to sweep the world.

Continuing, the Senator from Nevada said:

We are seeking primarily to keep our citizens out of war, and in this effort we cannot be deterred by the effect of our domestic action upon any belligerent. The act provides that we must treat all belligerents alike. Nothing could be more neutral.

So where is the argument that the arms embargo today is unneutral when it was perfectly neutral in 1935, 1936, and 1937?

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. PITTMAN. I do not wish to interrupt the Senator to any great extent now. He has done me such high honor by reading from my statement that I do not wish to interrupt him unnecessarily. He may have something else in mind he wishes to read.

Mr. OVERTON. I will say to the Senator that I have.

Mr. PITTMAN. I like the sentence the Senator just read, that the act would be neutral if it affects equally all belligerents. The other day during the colloquy I attempted to show that its effect is not neutral. At the time I made the statement from which the Senator read I believed that it would be neutral. I now know that it is not neutral.

Mr. OVERTON. Mr. President, I understand the contention made by the Senator from Nevada; but if I were driven to a choice between selecting the position that he took at one time and the position he takes at another time, I think that I would be safe in taking the position which he adopted in the calm atmosphere of a comparatively peaceful world and in the cold logic of unimpassioned and disinterested reasoning.

Mr. President, when the Spanish embargo was offered as an amendment to our neutrality legislation, the Senator from Nevada, upon the floor of the Senate, uttered something far more eloquent than has ever fallen or could fall from my lips. I read it to the Senate. The Senator from Nevada said:

What I should like to do so far as arms and ammunition and munitions of war are concerned would be to starve them both out so they would not have an airplane to drop a bomb on women, children, and the nonbelligerent population; so they would not have a shell to put into a rifle to shoot at long distance and kill innocent people; so they would not have a bomb to blow up buildings with noncombatants in them. I would starve them both out as far as weapons are concerned, and that is my object so far as we can possibly accomplish it.

He would starve them out—not as far as food is concerned, not as far as raiment is concerned, not as far as the material used for the building up of a country, not so far as it may be used both in peacetime or in war, but he would starve them out so far as the weapons of war are concerned. In other words, he would place an absolute embargo upon the exportation of arms. And why? Was it simply in order to protect only the women and the children and the old men of Spain? Was that what influenced the view and the sentiments of the Senator from Nevada? No; it could not be that. I know the Senator so well that I know that when in 1937 he was opposed to the United States manufacturing, for the purpose of exporting abroad, bombs and airplanes which would be used to destroy women and children and old men and non-combatants, that when he was opposed to shipping abroad these great cannon, these long-range cannon and shells with which to load them, he was not doing it simply to protect the noncombatants of Spain, but he was doing it because the arms embargo which the Senator from Nevada had so successfully incorporated into our neutrality legislation protected the innocent people and the children and the women and the old men of every belligerent nation on God's green earth.

I would starve them both out—

How graphic. How strongly couched. How transcendently eloquent.

I would starve them both out of the weapons of war.

Now, I think I have made myself quite clear that it is my purpose to present the arguments of one who has given greater study to this question than I have, and who is able to reach a determination upon it. I present the arguments of the Senator from Nevada upon their merits, and I think that they reinforce the position which I am now taking.

I will content myself with presenting another quotation from the Senator from Nevada. In a speech which the Senator broadcast on August 23, 1937, entitled "The Neutrality Act and the Far Eastern Crisis" he said:

There being no such thing as international law during periods of war which is recognized by belligerent governments, Members of Congress ever since the World War have sought the enactment of laws that would tend at least to eliminate some of the causes that dragged us into the war. We realize that belligerents who control the seas can receive arms and ammunition and implements of war while their enemies cannot. This has in the past and always will arouse the intense anger and hatred of those governments and peoples who are thus necessarily discriminated against. * * *

The act was enforced as to both Italy and Ethiopia during the war between those countries. It is true that Italy complained on the grounds that, controlling the sea as she did, the embargo did not affect Ethiopia and only injured Italy. That condition will exist in every war. The law is not enacted for the purpose of aiding or injuring either the strong or the weak in the conflict. It is not to be used for the purpose of determining and punishing the aggressor. It was enacted for the sole purpose of protecting the lives and property of our citizens and eliminating causes that have in the past and that might in the future drag us into a foreign war.

What, then, becomes of the argument which just a few moments ago dropped from the lips of the Senator from Nevada that he is in favor of the repeal of the arms embargo because it is unneutral, in that it operates to the disadvantage of one nation as against another?

In the address to which I have referred the Senator from Nevada said that we were not concerned with what effect the embargo would have upon foreign belligerents. We were not concerned with the complaint made by Italy that she commanded the seas and we withheld from her the weapons of murder and massacre, and that we should change our laws to suit the pleasure, the wishes, and the advantages of the Italian Government. If that argument be true in reference to Italy, is it not true in reference to any other country? Is it not true in reference to England? Is it not true in reference to her ally, France? The embargo was neutral then. It is neutral today.

Mr. President, the Senator from Nevada has given another reason, which he did not mention today in the brief colloquy between us, why he favors the repeal of the arms embargo. I shall quote verbatim from a radio address delivered by the Senator over the facilities of the National Broadcasting Co. on September 27 of this year. This is what the Senator said:

We enacted the embargo law in the first place chiefly for the purpose of preventing the submarining of our American vessels.

I quote his language exactly:

We enacted the embargo law in the first place chiefly for the purpose of preventing the submarining of our American vessels.

Was that the purpose? If that had been the purpose, why an absolute embargo? If that had been the purpose, why not prohibit arms and munitions of war being carried in American bottoms to belligerent nations? If that had been the purpose, we could have served that purpose, not by an absolute arms embargo, but by denying to our merchant marine the right to transport instruments of war to belligerent nations.

Last Sunday night I was sitting in my apartment listening to a broadcast in the Forum of the Air. The debate was concerning the arms embargo and the Senator from Nevada made a statement which I shall attempt to recall from memory. I am unable to quote the Senator verbatim, because I have not had access to the manuscript. However, according to my memory, he made a statement substantially as follows—and, if I be incorrect, he may correct my statement:

I confess that in life I have made many errors, and that this was one of them; but it must be understood that now the European situation has changed, and Russia is in cooperation with Germany.

If that is not a correct statement, I pause to have it corrected.

Mr. PITTMAN. Mr. President, I think it is substantially correct. That was not all of my statement, but that is substantially correct.

Mr. OVERTON. Mr. President, I do not for a moment question the integrity of the reasoning of the Senator from Nevada; but can that be true? I will ask the Senator from Nevada to reflect upon it, because, as I understand, in July and August of this year he was advocating the repeal of the arms embargo. He stood then for the repeal of the arms embargo. He advocated it before there was any European conflict and before there was any cooperation between Russia

and Germany; and he stood for it at a time when Great Britain, according to common report, was endeavoring to form a pact with the insufferable Soviet Republic.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. OVERTON. I yield.

Mr. PITTMAN. Even at that time the domination of Hitler over the small eastern governments was evident to anyone who had studied history.

Even at that time he had forced his will on Rumania. Even at that time he had compelled Rumania, a neutral country, to give him, through a treaty, absolute control over its industries and its transportation. There was not a thing that he could tell Rumania to import into Rumania that Rumania would not have to import. There was not a thing that Rumania imported that he could not have compelled Rumania to turn over to him. He had the method of avoiding our Neutrality Act relating to embargo, as he has today—something I could never before have conceived of, even if the Senator from Louisiana could.

Mr. OVERTON. Conceding that that be true, was that situation at all different from the situation which existed in the Italian-Ethiopian war, when the statement was made by the Senator from Nevada that it made no difference whether or not we withheld arms from Italy or from any other country, and that in effect we were pursuing a strict course of neutrality?

Mr. PITTMAN. And so we were. However, if on the other hand Ethiopia had been surrounded by Russia, Rumania, Hungary, and other powerful countries which had the money to buy arms and ammunition and had the desire and intention to put them into Ethiopia, we should have been discriminating against Italy.

Mr. OVERTON. Mr. President, I am one of the many who do not sympathize with Germany in its present prosecution of this war. I have no sympathy with Hitlerism. I have no sympathy with dictatorships. However, it is not the province of neutrality legislation, and it is not the province of the Congress of the United States, to undertake to dictate to foreign nations what form of government they shall have, whether they prefer a republic or whether they prefer a dictatorship. As I conceive the matter, it is not within the proper scope and realm of neutrality that we should say that because there is a dictator at the head of one nation we should undertake by neutrality legislation to punish him, and, on the other hand, undertake to aid his foes. I do not understand that the Senator takes that attitude, but it seems to me that his argument leads irresistibly to such a conclusion.

Mr. PITTMAN. I am glad the Senator does not intimate that I take that attitude, although he says the argument leads to it.

Mr. OVERTON. It leads to it.

Mr. PITTMAN. As a matter of fact, it would not make any difference whether Germany was a democracy, a republic, or an empire. When we enacted the Embargo Act we realized that it was going to be slightly injurious to countries which controlled the seas. That was all right. However, we did not anticipate that not only was it going to be injurious to those countries which controlled the seas by not permitting them to obtain munitions, but that it would be further injurious to them by permitting land powers to obtain munitions when the sea powers could not obtain them. That is exactly the situation which exists today under our Embargo Act. Our commodities may go into Russia, Rumania, or even Italy, and we know where they go when they arrive there. Yet such commodities may not go to the sea powers. I did not object to taking them away from the sea powers—that is, taking something away from all sea powers—but when we take them away from the sea powers under the theory that we are going to deny them to the land powers, and a condition develops by which we are giving them to the enemy land power and denying them to the nation having control of water transportation, we are then absolutely knowingly utilizing an act on our statute books for a discrimination in the administration of the act.

Mr. OVERTON. A little later in the course of my presentation I shall undertake to answer that argument of the Senator. What I am now undertaking to do is to present the argument he used to convince the Congress of the United States and the American public that the arms embargo is the proper policy for us to pursue regardless of any of the considerations which have been suggested.

Now I wish to call another witness. On September 15, 1936, in a speech before the Good Neighbors League of New York City on the subject, Our Foreign Relations and Our Foreign Policy, our very able Secretary of State, Hon. Cordell Hull, made this statement:

The legislation recently passed—

Referring to the neutrality legislation—

provides some of the main essentials in a wise anticipatory policy.

Anticipatory policy. Anticipatory of what? Anticipatory of the outbreak of war in other countries; anticipatory of the world being cursed with another great European conflict.

That "anticipatory policy" was a wise policy. It was not only wise then, at the time it was enacted, but because it was anticipatory it is wise as a permanent provision of the neutrality legislation of our Nation.

I have in mind the resolutions of Congress—

I am quoting further from the Secretary of State—

I have in mind the resolutions of Congress in 1935 and 1936, which, in addition to providing for the licensing of our imports and exports of arms, ammunition, and implements of war, prohibit their shipment to belligerent nations.

Now, Mr. President, I move up to still higher authority. I note that the President in the address he delivered to the Congress of the United States when it assembled in joint session 2 weeks ago made the statement, in effect—I have not his speech before me—that he had signed, it is true, the neutrality resolution of 1935, carrying with it an absolute embargo on arms, but that he had done so reluctantly.

So, Mr. President, I took the opportunity to ascertain whether or not the President of the United States had made any statement with respect to the neutrality resolution of 1935 and the arms embargo therein provided. Do not misunderstand me. I do not now, and would not under any circumstances, question the sincerity of that statement made by the President; but sometimes memory plays us false and we forget things we have uttered in days gone by. When the President signed the resolution containing the embargo provision on August 31, 1935, he issued the following statement, which is to be found in Department of State Releases, volume 13, No. 309.

I have approved this joint resolution because it was intended as an expression of a fixed desire of the Government and of the people of the United States to avoid any action which might involve us in war. The purpose is wholly excellent, and this joint resolution will, to a considerable degree, serve that end.

Six months passed away. There came the assembling of Congress in its annual session, January 3, 1936, and the President of the United States sent a message to both Houses. I quote the following excerpt from that message:

As a consistent part of a clear policy, the United States is following a two-fold neutrality toward any and all nations which engage in wars not of immediate concern to the Americas. First, we decline to encourage the prosecution of war by permitting belligerents to obtain arms, ammunition, or implements of war from the United States.

I take it that that was one of the fundamental reasons why we enacted the embargo provision. It was not simply for the purpose of following a course of strict neutrality, but it was for the purpose, in the language of the President, of discouraging the prosecution of war, or as he put it:

We decline to encourage the prosecution of war.

Can you tell me, sir, that the situation has so changed, that the world has so changed, that military tactics and strategy have so changed that today the shipment of arms, ammunition, and implements of war to the battle fronts of nations engaged in conflict is not an encouragement of war? When we declined to ship arms to warring nations

in 1935 we did it, according to the statement of the Chief Executive of our country, the representative of all our people, because we declined to encourage war.

I wish to say to you, Mr. President, that today down in the hearts of millions of men in the United States and in the hearts and in the souls of countless American mothers whose sons, in the event of war, would be offered as a sacrifice, the main purpose of an embargo, the main purpose of not shipping arms to the warring nations is to discourage the havoc, the sacrifices, the distress, and the destruction of warfare. It is not simply neutrality; it goes deeper than that; it penetrates into the very fundamentals of our conscience, our thought, and our being; that is that we should not supply those who are engaged in mass murder with the implements to effect their purpose.

The President stated that this arms embargo was "a consistent part of a clear policy" of neutrality. It was clear then. Why is it murky now? Why is it not clear now?

On February 29, 1936, the President, in approving an extension and strengthening of the 1935 act, said:

By the resolution approved August 31, 1935, a definite step was taken toward enabling this country to maintain its neutrality and avoid being drawn into wars involving other nations. It provided that in the event of the Executive proclaiming the existence of such a war thereupon an embargo would attach to the exportation of arms, ammunition, and implements of war destined to any belligerent country.

The President therefore advised us, in 1936, that our resolution imposing the arms embargo was intended not only to discourage war but also to enable this country to maintain its neutrality and to avoid being drawn into wars with other nations. If that was true then, why is it not true today? Why is it not true, as the Senator from Nevada [Mr. PITTMAN] said a year or so ago, that when we permit the exporting of arms and ammunition to belligerent nations we arouse the hatred and antagonism of other nations which are unable to obtain them from us?

If, Mr. President, we repeal the arms embargo, may we not be giving cause, as the President suggested, for "being drawn into" this European war by arousing, as the Senator from Nevada has declared, the antagonism and hatred of the nation or nations adversely affected?

The other night I saw a moving picture here in the city of Washington. In it I saw huge cannon rising from their places of concealment and belching forth their fire and destruction. I saw the air filled with zooming bombers dropping their bombs upon the ground. I saw all of the modern implements of war. I thought to myself, Is that the purpose for which we are here assembled? Is it our purpose to go back on the policy we have adopted and to ship to the nations now engaged in war those instruments of death and destruction? Is it our purpose to open up our factories of production, to make the night joint laborer with the day, to expand them to their full capacity in order that we may ship abroad to the European countries which are being so pressed by this inhuman war airplanes and bombs that are used not only against combatants, but—as the Senator from Nevada has well said—against noncombatants and innocent persons? Are we going to ship these huge cannon and shells for the purpose of human massacre and human destruction? Is that America's contribution to world peace? God forbid it!

Mr. President, I have received many letters from my constituents in reference to this vital issue. Most of them, I may say, are against the repeal of the arms embargo. I do not for a moment intimate that those letters are persuasive. The issue is not a State issue. It is not a local issue. It is a national issue. It is an international issue. But many of those who do advocate repeal have put their advocacy upon the ground either of sympathy for the cause of the allies or of hatred of Hitler, or of a desire to crush dictatorships in the Old World.

As I have said before, I have no sympathy with dictatorships. I have no sympathy with nazi-ism. I have no sympathy with Hitler and Hitlerism. But, Mr. President, whenever anyone is motivated, in a desire to repeal the arms embargo, by love of one foreign country or of one form of gov-

ernment in a foreign country and hatred of another foreign country and of its ruler, he is not motivated by a desire to observe strict neutrality. He is not motivated by a desire that America avoid participation in the war.

There is some sentiment in this country—I hope it is not a growing one—that we should repeal the arms embargo either because we want to aid one nation as against another or else because those who take that position are afraid that Hitler may become or is so strong and powerful that he will not only be able to defeat the Allies but will be able to bring his minions across the broad Atlantic and subjugate our country.

I appreciate the candor of the statement made by the Senator from Indiana [Mr. VAN NUYS] in a broadcast the other day, in which he frankly stated—I quote him from memory, and if I am incorrect I shall be glad to correct the statement:

I am for the repeal of the arms embargo because I want to crush Hitlerism.

That is a frank statement. I submit to my colleagues, however, that if that should be the purpose in undertaking to lift the arms embargo—to aid the allies, to punish Germany, and to defeat Hitlerism—why go halfway? Why not go the whole way? Why not now sound the tocsin of war and unfurl our battle standards against Hitler's hordes?

Furthermore, if we open up our arsenals and our munitions factories for the manufacture, and our ports for the export of arms, ammunition, and implements of war, is it not conceivable that Germany will feel that in taking such action we have gone almost as far as we can go at the present time, at least, toward aiding her opponents and injuring her? And if she does take that position, will she hesitate to retaliate? Why should she, in that eventuality, fear our declaring war against her or her declaring war against us? Suppose there is war between Germany and the United States. What can we do to her further than, mainly, the shipment of munitions of war to her opponents? We cannot undertake to sink her fleet, because it is bottled up in the Baltic and in her harbors. We cannot undertake to destroy her merchantmen, because England has driven them off the seven seas. We have said over and over again in these United States that never again shall we send an expeditionary force to European battlefields.

Therefore she has nothing to fear from our man power, she has nothing to fear as to what we may do to her navy and merchantmen, and if she undertakes to retaliate she may undertake to retaliate by destroying our merchantmen, which are still plying the seas between neutral ports. She may engage, as she did once before, in unrestricted submarine warfare.

It is well enough to say, "Let her come on. We whipped her once, and we can whip her again." But when we do it we are engaged in war, war brought about by our own act in antagonizing one of the belligerent nations, which undertakes to retaliate against us.

I think it is idle for us to say that when that war does come it is going to be merely a paper war. Germany may think so, Hitler may think so, but I say to my colleagues that when the German submarines are torpedoing our merchant ships, and when Germany's guns are firing upon the American flag, and when she is sending down to Davy Jones' locker American citizens, there will be a cry to open war upon Germany, and to open war in such a way that we can retaliate. The cry will be, "We will fight the Germans where the Germans are, on the battlefields of Europe." I do not want the United States to take that chance.

I wish in conclusion to read an excerpt from the address delivered by the President to the joint session of the two Houses of Congress at the opening of this extraordinary session. He said:

Since 1931 the use of force instead of the council table has constantly increased in the settlement of disputes between nations—except in the Western Hemisphere where there has been only one war, now happily terminated.

During these years also the building up of vast armies, navies, and storehouses of war has proceeded abroad with growing speed and intensity. But, during these years, and extending back even to the days of the Kellogg-Briand Pact, the United States has constantly, consistently, and conscientiously done all in its power to

encourage peaceful settlements, to bring about reduction of armaments and to avert threatened wars. We have done this not only because any war anywhere necessarily hurts American security and American prosperity, but because of the more important fact that any war anywhere retards the progress of morality and religion and impairs the security of civilization itself.

Mr. President, I thrilled to those words when they were uttered, and I thrill to them now. It has been a glorious purpose the United States has had in view during these years. It was an inspiring policy we adopted, it was one which appealed to the heart of every mother in these United States. But let me ask, is the shipment of munitions of war to the fighting nations of Europe a step toward reduction of armaments, which the President correctly says has been one of the great objectives of our American diplomacy and our American policy? Is it a step toward disarmament? Nay, it is the very reverse, it means the arming of the soldiers of war in order that they may the better prosecute their appointed task.

As for me, Mr. President, let me say that I am unwilling, as my conscience is my guide, to take any step which I believe may lead America into a war that will make widows of our wives, orphans of our children, corpses of our young men, and bankrupts of us all, and which, unhappily, at some time in the future—not referring to the day and the hour, or to whoever may be in control of the Government—may perhaps lead to the overthrow of our cherished institutions and the establishment here of a dictatorship. [Manifestations of applause in the galleries.]

The PRESIDING OFFICER (Mr. MEAD in the chair). The Chair admonishes the occupants of the galleries to refrain from applauding or giving any other indication of their attitude in connection with the debate. The Chair directs the doorkeepers in the galleries to see that any violating the rules of the Senate are excluded.

Mr. PITTMAN. Mr. President, under the understanding as to participation in the debate, the junior Senator from Washington [Mr. SCHWELLENBACH] is to proceed at this time. Therefore, I will take only a few moments to comment briefly upon some of the remarks of the senior Senator from Louisiana [Mr. OVERTON] involving my course. However, after the Senator from Washington shall have completed his address, if it be not too late in the day, I will, with the consent of the Senate, more fully answer what I consider an inference of inconsistency, because the Senator from Louisiana quoted extensively from my speeches, and then referred to my present attitude. I feel highly honored that the Senator has read so extensively from my various addresses. I am glad that he was in accord with them. I am satisfied that he would be in accord with my present attitude if he should study the facts as I have studied them. I am not without hope that before the debate shall be concluded he will find that there are exceptions.

I desire to say to the Senator that I have nothing to deny with regard to what he has read, nor have I any apology to make. I hope that what he has read from my former remarks indicates at least that my hatred of war and my belief in its futility are just as strong as those of any Senator in this body.

As the Senator has shown by what he has read, I supported the Embargo Act in 1935 both in the committee and on the floor, and I supported the restrictions on credits to belligerents both in the committee and on the floor. I have nothing whatever to apologize for in that regard. I had the greatest confidence in the effect of those two acts.

I may say also, as the Senator has read what I stated, if it were in my feeble power by a wave of the hand to abolish from the face of the earth today every bombing plane and every bomb, all poisonous gases, and every other device which can be used to destroy innocent men, women, and children, I would do so.

Perhaps at one time in my imagination I fancied we could help to do that, but my belief has been terribly shocked by the realities of the last few years. Our embargo on arms and ammunition did not stop war; it did not prevent war. It did not prevent the Italian-Ethiopian war; it did not prevent the

war of Japan against China; it did not prevent the destruction of Czechoslovakia. It did not prevent the destruction of Poland; and, so far as retarding war is concerned, it has accomplished nothing. It has not stopped the brutality of war murder, as we hoped it might help to do.

If there has ever been brutal bombing of civilian populations in the history of the world, it has been going on for 2 years in China. Civilian populations have been bombed in places where there was no army, where there were no munitions of war. Those populations have been bombed from the air. Hundreds of thousands of men, women, and children have been killed by bombings in China, but not with our arms, ammunition, and implements of war. Nor could all that have been retarded by embargo on arms, ammunition, and implements of war, because Japan did not need those things that we call arms and ammunition. She did not want our manufactured bombs. What she wanted was scrap iron with which to make bombs, because she has plenty of labor and she has munitions factories, and she can buy the iron cheap, rather than to pay a big price for the bombs.

The Embargo Act would not have stopped the shipping of gasoline to Japan, because gasoline is not on the embargo list. The shipment to Japan of 80 percent of the gasoline which she has used to fly the planes in which to carry the bombs made out of our scrap iron, with which to accomplish mass murder in China, could not be stopped by any Embargo Act we now have.

Mr. President, let those who depend on the embargo to prevent mass murder of innocent people, to discourage war, be sincere; let them by law place upon the embargo list all of those other instruments of war which are not there now, and which Great Britain and Germany say are just as much instruments of war as are the rifle and the cartridge, so much so that they will sink a ship wherever they can find it which carries them, as quickly as they will sink a ship carrying cartridges or rifles.

Mr. President, that is the way to be sincere in this matter. If Senators think that an embargo is the only thing which will prevent the United States from participating in mass murder, then let them be sincere and stop the shipment of things which are used in mass murder. Who is rising to offer a resolution to include cotton as an instrument of war? Cotton is admittedly an instrument of war.

Mr. OVERTON. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. OVERTON. Does the Senator take the position that because we deny warring nations completely manufactured weapons of war to be used at once, we should also deny raiment to their noncombatants and food to their noncombatants, and starve them all out, simply because food and raiment and other things may also be used by armies engaged in war?

Mr. PITTMAN. Oh, yes; and rifles and cartridges can be used to shoot deer; but, as we know, all the cotton that is imported into warring countries today goes first to the army, and, if there is any left, it may go to others. It is an instrument of war. It is declared to be an instrument of war by the belligerent countries. They will sink every ship that carries cotton to their enemies under the orders they have already made.

If Senators are trying to protect American seamen from being killed on the high seas, then they do not want any American ships to carry cotton. Of course not, because belligerents will sink American ships carrying cotton just as they will sink ships carrying munitions. If Senators do not want us to engage in mass murder, then they do not want us to sell cotton to belligerents, because they know in their own minds that cotton is used to make guncotton, which is the chief explosive used in bombs.

Has any Senator risen to say that copper, lead, and zinc should not be put in the list? Oh, no. Does anyone want to put on the embargo list oil or gasoline? No, no. So do not question my sincerity on a proposition of that kind.

Let me say that I found out after 1935, by a study of history and renewing my knowledge of it, that the embargo law and

the law controlling loans to belligerents were not sufficient, and in the committee in 1936 I supported the cash-and-carry plan, and supported it on the floor of the Senate. So far as I recall, the Senator from Louisiana has not read any of my statements from the debates on the law of 1937. There was a change made then. Nearly every Senator in this body changed his attitude from 1935 to 1937. I commenced to realize that the cash and carry—particularly the carry plan—was the most important thing that we could do to keep out of war. It was realized that we were dragged into the war in 1917 by reason of the killing of our seamen on American ships going into neutral ports. Then we had only one of two alternatives. We had either to fight for our neutral rights or we would have to suspend them. We fought for them. Now we propose to suspend them. But I cannot see how we can be neutral with the situation in Europe today under the Embargo Act. That is all I have to say now. I cannot see it in the administration of this act.

I do not want now to take up any more of the time of the Senator from Washington [Mr. SCHWELLENBACH]. However, later in the day, if it is agreeable to the Senate, depending upon what time the Senator from Washington concludes his address, I should like to go a little further into the matter of the speeches from which the Senator from Louisiana has read, very largely and almost exclusively for the purpose of rebutting any inference of inconsistency.

Mr. BYRNES. Mr. President, I make the point of order that there is no quorum present.

The PRESIDING OFFICER. Evidently there is not a quorum present. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Donahey	King	Reed
Andrews	Downey	La Follette	Reynolds
Bailey	Ellender	Lee	Schwartz
Barbour	George	Lodge	Schwellenbach
Bilbo	Gerry	Lucas	Sheppard
Borah	Gibson	Lundeen	Shipstead
Bridges	Gillette	McCarran	Smathers
Brown	Green	McNary	Stewart
Bulow	Guffey	Maloney	Taft
Byrd	Gurney	Mead	Thomas, Utah
Byrnes	Hale	Murray	Tobey
Capper	Hatch	Neely	Townsend
Caraway	Hayden	Norris	Tydings
Chavez	Herring	Nye	Vandenberg
Clark, Idaho	Hill	O'Mahoney	Van Nuys
Clark, Mo.	Holman	Overton	Wagner
Connally	Holt	Pepper	Walsh
Danaher	Johnson, Calif.	Pittman	White
Davis	Johnson, Colo.	Radcliffe	Wiley

The PRESIDING OFFICER (Mr. LUCAS in the chair). Seventy-six Senators have answered to their names. A quorum is present.

Mr. SCHWELLENBACH. Mr. President, I wish to commence my remarks with the expression of the hope that during the remainder of the course of this debate there may be maintained by the Members of this body, not only in their discussions upon the floor but in their discussions intended to reach the general public, the same spirit of recognition of a mutual aim and goal which has been evidenced here this week.

This debate varies a little from most of the debates we have, in that there is, and can be, no difference in the ultimate objective of those who occupy one position as compared with those who occupy the other position.

I think it is extremely important in the course of these discussions that no effort be made to mislead the American people, and that the members of our Government be honest with the American people, because we must recognize that in the final analysis the decision upon the question whether or not we shall be able to stay out of war will be made by the American people.

Today the American people are determined to stay out of war; Members of Congress are determined to stay out of war; and the President of the United States is determined to stay out of war. But during the coming months there will be efforts to confuse the thoughts and minds of the people by means of an influence such as subtle propaganda, instilling in their minds a feeling of fear and of horror. Mem-

bers of this body and others connected with the Government have the responsibility of avoiding any attempt to influence the American people by prophecies of disaster or by promises of too complete success.

I can very readily understand the confusion in the mind of the average American today. In 1935 we passed a law. We renewed it in 1936, and we renewed it by amendment in 1937. The people of the country were told that by the adoption of that legislation they had, through their Congress, purchased an insurance policy against war.

There were three main parts of that law. The first was the arms embargo. The second, and in my opinion the most important part, was the "carry" provision, which restricted the rights of our ships upon the sea. The third was the financial provision.

The second provision of the act expired on the first day of May of this year. I know that people at home said, "Why is it necessary for you to talk about a neutrality law? We thought you passed one in 1937. Why is it necessary to raise the question again?"

The first reason is that one of the most vital parts of the law expired by the operation of the law itself on the 1st of May. The second reason is that there is a general recognition—and I think there is not now much dispute in this body that there is a general recognition—of the necessity of strengthening the financial provisions of the act. The third reason is that some of us have reached the conclusion that the peace, safety, and security of the American people may be much better served by the repeal of the arms embargo than by the continuance of the arms embargo. It is upon that issue that this debate is based.

I think it might be well for us, as Members of this body, to stop and ask ourselves a question. Since about the middle of the eighteenth century the neutral nations of the world have been trying to work out systems whereby they could avoid being drawn into controversies in which they had no interest.

By and large, with very few exceptions—and most of them were noted on Monday last by the Senator from Idaho [Mr. BORAH]—the neutral nations of the world have come to the conclusion that their safety, their protection, and their desire to stay out of the wars of other nations may best be served without imposing an embargo upon the exportation of arms and ammunition.

A little less than 200 years have gone by since the first great work upon this subject, written by Vattel, described the needs neutrals had and outlined in the form of a dissertation upon international law what neutrals might best do.

I know there has been a strong tendency upon the part of many people in this country, as there has been a tendency upon the part of many Members of this body during the last few years to say that international law was simply "out the window," that it was to be forgotten, that it was dead, and that nobody should pay any attention to it any more. I am not going to argue that question, but certainly the great wealth of experience the nations of the world have had during hundreds of years should be taken into consideration by us when we are faced, as we are today, with the responsibility of attempting to do something that will keep our nation out of war.

The fact is that, almost without exception, the great students of this subject since 1758 have agreed that a nation was safer so far as being involved in the wars of other countries was concerned without an arms embargo than if it had an arms embargo, and we have some responsibility to take that fact into consideration. It seems such a simple matter. We will merely refuse to ship arms, ammunition, and implements of war to any warring nation and then we cannot get into their war. That was a magic wand that could be waved and we accepted it in the face of the rich experience of the neutral nations for the last 200 years.

I believe—indeed, I am thoroughly convinced—that the maintenance by a neutral of an arms embargo is infinitely more dangerous than for it not to have an arms embargo. Why? I desire to cite some authorities upon the subject.

but first let me make a statement of the background for that belief.

International law recognizes the responsibility upon the belligerent itself to protect itself against the shipment to its enemy of contraband, including arms, ammunition, and the implements of war. International law recognizes no responsibility upon the neutral government to stop its citizens from shipping contraband. It is for the benefit of the belligerent, and therefore the neutral does not have any responsibility to stop it. But when the neutral assumes the responsibility to stop it, when it passes an embargo, a domestic law governing its own citizens, then that neutral has a responsibility. The burden shifts from the belligerent to protect itself over to the neutral to protect the belligerent.

That is precisely what we did when we adopted the arms embargo in 1935 and 1937. It is the responsibility of the United States Government today to protect the belligerent nations of Europe against our citizens shipping arms, ammunition, and implements of war to those nations. Without an arms embargo, it would be their responsibility. If we fail in our responsibility, we are subject to the antagonism of and criticism by the belligerent; and if we continue in our failure, that continuation of failure in itself constitutes an unfriendly act which would justify the belligerent in declaring war against us.

What is my authority for that statement? I wish to read first from an author who, I think all Senators will agree, is an authority upon this question—John Bassett Moore. He says this:

The fundamental principles are simply these: From the point of view of neutrality the question of unlawfulness is presented in two aspects, (1) that of international law, and (2) that of municipal law. Offenses under (1)—i. e., acts unlawful by international law—are divided into two classes, (a) acts which the state is bound to prevent, and (b) acts which the state is not bound to prevent and which therefore are not usually offenses against municipal law. The dealing in contraband belongs under (1) (b), for it is (1) unlawful by international law, as is shown by the fact that the noxious articles may be seized on the high seas and confiscated; but (b) it is not an act which it is the duty of the neutral state to prevent, and therefore is not usually prohibited by municipal law.

Judge Moore continues:

Why is the neutral state not bound to prevent it? Simply because, from obvious considerations of convenience, it has been deemed just to confine within reasonable bounds the duty of the neutral state to interfere with the commerce of its citizens, even for the purpose of repressing unneutral acts. The principal interest to be subserved being that of the belligerents, it is left to them, in respect of many acts in their nature unneutral, to adopt measures of self-protection; and neutral states are deemed to have discharged their full duty when they submit to the belligerent enforcement of such measures against their citizens and their commerce.

I quote further from Judge Moore:

If the sale of munitions of war is to be held a breach of neutrality, "instantly upon the declaration of war between two belligerents, not only the traffic by sea of all the rest of the neutral powers of the world would be exposed to the inconveniences of which they are already impatient, but the whole inland trade of every nation of the earth, which has hitherto been free, would be cast into the fetters. . . . It would give to the belligerent the right of interference in every act of neutral domestic commerce, till at last the burden would be so enormous that neutrality itself would become more intolerable than war, and the result of this assumed reform, professing to be founded on 'the principles of eternal justice,' would be nothing less than universal and interminable hostilities." (Sir W. Harcourt, *Historicus*, 134.) For, not only the vendor of the iron would have to be prevented from selling to the vendor of the gun, but the miner and machinist would have to be prevented from working for the vendor of the iron. A neutral sovereign, therefore, would have either to stop all machinery by which munitions of war could be produced for belligerent use, or expose himself to a call for whatever damages his failure so to do might have caused either belligerent. Under such circumstances it would be far more economical and polite to plunge into a war as a belligerent than to keep out of it as a neutral.

Let me read from another authority upon this subject, James W. Garner, who quotes from Spaight as follows:

As Spaight aptly remarks:

"If a neutral power were held responsible for all the commercial transactions of its subjects with belligerents, most of the nations of the world would have to rewrite their constitutions whenever a war began. The outbreak of hostilities between any

two states would have the effect of establishing in every country not participating in the war a system of governmental interference with private persons and their business transactions which would only have to be tried once to stand condemned as intolerable and impossible."

Geffcken and von Bar, both German writers, have condemned the proposal to prohibit the exportation of arms and munitions largely for this reason. Geffcken remarks that to attempt such a measure would be to impose upon neutrals impossible responsibilities. Von Bar says it "would not only injure incalculably the commerce of neutrals, but it would necessitate a system of surveillance and control by neutrals over the sale and transportation of merchandise which would be intolerable."

The obligation to prohibit such traffic being once recognized, legal responsibility for failure to enforce the prohibition follows as a consequence and the neutral is exposed to liability for damages to an injured belligerent for neglect to exercise due diligence. As Lawrence observes, a nation "after having dislocated its commerce and aroused the anger of its trading classes, might possibly find itself arraigned before an international tribunal and cast in damages because a few cargoes had slipped through the cordon it maintained against its own subjects." "No chain of mountains and no coast line," says Lorimer, "has ever been or really could be guarded, and a state which undertakes to do it would be exposed to the accusation of having failed in its engagements."

The practical result of such a policy—

He is referring to the policy of an arms embargo—

would be to shift the responsibility which now rests upon belligerents themselves to intercept shipments of contraband destined for the use of the enemy, to the shoulders of the neutral who becomes liable to damages for failure to do it. Instead, therefore, of removing what is admitted to be one of the chief sources of controversy between belligerents and neutrals, it is believed that such a rule would, by imposing undesirable if not impossible duties upon neutrals, greatly augment the already serious inconveniences to which they are subjected, and lay the foundations for international claims and controversies.

Mr. TYDINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Maryland?

Mr. SCHWELLENBACH. Yes; I yield.

Mr. TYDINGS. I am very much interested in what the Senator is reading. The thought occurs to me, Does that reasoning apply if cash and carry pertains? Does not that reasoning apply when there is no cash-and-carry provision? Would it not be tenable to say that it would not apply if cash and carry were present, so that the goods were carried in the bottoms of belligerents?

Mr. SCHWELLENBACH. At first I thought the question meant something else; but, as I now understand it, the Senator asks if this burden would not be removed under a cash-and-carry system. No, for this simple reason: I ask the Senator to remember back a couple of weeks, when some sailor in New York refused to sail on a ship, and was called before a board for failure to do so. He testified that the reason why he would not go on the ship was that the ship contained arms and implements of war; and a hearing was required to find out whether or not the particular kind of shotguns that were on the ship were the kind that would come under an arms embargo under a contraband list.

I give the Senator that as just an example of what would happen. It does not make any difference who takes away the articles; our Government would have the responsibility, under the embargo, of seeing that no arms or ammunition got into any ship. I say, as a matter of fact, there would be greater danger under a cash-and-carry system, because we would have exclusively foreign vessels in our ports, and there would be a greater danger of various articles which would be in violation of the embargo slipping through on board of foreign ships than on board of ships of our own registry. So I think the Senator is not correct, and that the actual opposite would result from the situation he suggests.

Mr. TYDINGS. I think the Senator misunderstood my question. My question was, Did not the reasoning of Mr. Moore and the other authorities quoted by the Senator apply to a situation in which there was an embargo, but no cash-and-carry provision attached to the embargo restriction?

Mr. Moore's summary is based upon free commerce, except that the embargo applies to arms and munitions without regard to price, payment, time of payment, or credit.

If cash and carry were put on top of it, so that the title passed at the time the product left the port, then the Senator's reasoning would not, in my judgment, apply, and it is not the author's intention that it should apply; for in the very instant case which the Senator mentions, of the sailor who would not sail on a ship because there was a question of whether or not there were arms on the ship, the ship itself would be a foreign ship, and therefore the sailor would be under a foreign flag; and with the passage of title and the loading of goods on the ship, our responsibility would cease.

Further than that, under a cash-and-carry plan or under an arms-embargo plan our Government would not be responsible to any government on the face of the earth. Its responsibility would be to the people of the United States, and it would owe no responsibility to enforce that law to anyone except to our own people.

Mr. SCHWELLENBACH. I am sorry, I am afraid the Senator from Maryland has completely misunderstood the reasoning of Judge Moore and the other authorities I have cited, because unquestionably under a cash-and-carry system the difficulties and the dangers involved, as described by these authorities, would be infinitely greater than under a system in which there was no cash-and-carry provision.

I now desire to read briefly from a work on the sale of munitions by William C. Morey. He starts back and discusses in detail the basis of the theory I have presented, as outlined by Judge Moore and the two German authorities. He then states:

The Government of the United States from the beginning of its history has uniformly held to the doctrine, as consistent with international law—

This was written, as you may see, prior to the time of the enactment of the law of 1935—

that no neutral nation is under obligation to prohibit the sale of munitions of war to a belligerent power, but that the penalty of such an act so far as a penalty is sought, rests entirely in the hands of the offended belligerent. The prevention of the sale and transportation of munitions is, therefore, recognized in international law as a belligerent right, and not a neutral duty.

The subject of a neutral state is committing no offense against his own government by the carriage or sale of contraband to a belligerent, and hence is held to no punishment or restriction by his own government. The offense is committed against the belligerent power, and hence the belligerent government only is authorized to punish or prevent the offensive act. The conduct of neutral subjects within the jurisdiction of their own government is controlled solely by the municipal law of their own government. On the other hand, the punishment of the offenses committed by neutral subjects against a belligerent state is left to the municipal law of the belligerent government. With this matter international law has strictly nothing to do, except so far as the international relation between the states themselves is concerned, in that the neutral state is obliged to acquiesce, within certain limits, with the execution of the law of the belligerent state.

It seems evident that the provisions of international law relating to the transportation and sale of contraband goods, including munitions of war, are in harmony with both expediency and equity. The law, as it exists, confers upon the belligerent state, the party most interested in preventing such acts, the means to prevent them; and it relieves the neutral state, the party least interested in preventing such acts, from the obligation to prevent them. It, furthermore, relieves the neutral state from the difficulty, not to say impossibility, of establishing such a universal system of espionage over its own subjects as shall make their commercial transactions conform solely to the interests of warring powers.

* * * The laying of an embargo upon the sale of munitions of war is sought to be justified upon moral grounds. Notwithstanding the undoubted legal right on the part of a neutral power to permit the sale of munitions; and notwithstanding the absence of any legal right on the part of a belligerent to demand of a neutral power to prohibit such sale, it may be yet urged that circumstances may arise in the progress of a war when the continued sale of munitions may work injustice to one or the other of the belligerent parties. * * * To shift a question of this kind from the domain of law to the domain of morals opens a wide field for a difference of opinion as to what constitutes a moral international right. It assumes that there exists somewhere some common and accepted standard of conduct by which the moral relations of nations may be finally determined. As a matter of fact, so far as any such common standard of conduct may be said to exist, it is already embodied in the law. The law represents the common sense of justice insofar as the various ideas of a community of persons or of nations have been capable of being put into a definite and corporate expression. The so-called appeal from law to morals may,

therefore, mean simply an appeal from a definite and ascertainable body of rules which represents the organized judgment of a community to a standard which may be as shifting as the opinions of individuals.

It is true that official protests have sometimes been made on the part of belligerent powers against the right of neutrals to trade in contraband goods, and especially in munitions of war. Such a protest, of course, comes from a belligerent who is prompted, not by high moral considerations, but solely by motives of self-interest. He hopes by his protest to obtain some military advantage for himself or to deprive his adversary of some military advantage. The sale of munitions, it is admitted, is legally open to both belligerents; and as long as each has an equal opportunity to purchase, there need be no occasion for complaint. But if one belligerent, by an act of his enemy or other vicissitude of war, finds himself cut off from access to the sea, while his adversary still retains it, he would endeavor to equalize the war situation by seeking to stop all further supply of munitions to his adversary. And, besides this, he would seek to restore himself from a misfortune of war by an appeal to a neutral power which is in no way responsible for his misfortune. For example, a nation in expectation of a coming war and in preparation for it has been for many years providing itself with abundant supplies of arms, munitions, and other war material, with the intention of surprising its enemy while unprepared for the conflict—

I may say that this article was written long before any of the present forms of government in Europe came into existence—

It may, perchance, find itself, in the progress of the war, perhaps on account of the superior naval force of its enemy, shut up from ready access to the sea and estopped from exercising its authorized belligerent right of intercepting the transportation of munitions. It, therefore, claims that its enemy, which has been inadequately furnished with war material, and especially with those munitions necessary to equip an army, should be estopped from exercising its authorized legal right of supplying itself with further munitions.

Such a claim would evidently be based upon the benefit the belligerent hoped to receive by depriving his enemy of the means of defending himself. But this is not all. The right of intercepting the transportation of munitions of war is by law a belligerent right, and the exercise of this right is by law a belligerent act. Being now prevented himself by a sheer misfortune of war from exercising his own belligerent right and from performing a belligerent act which belongs to himself alone, he would impose upon a neutral power the obligation of exercising this belligerent right and of performing this belligerent act. He would thus seek to convert a neutral into an ally. Strictly speaking, the voluntary assumption on the part of a neutral state, in the interests of a belligerent power, of the task of preventing the legalized traffic in munitions of war, cannot be looked upon in any other light than as a belligerent, or at least an unneutral, act. On the other hand, a protest on the part of a belligerent power which seeks to compensate itself for a misfortune of war by demanding the services and intervention of a neutral state, has, in fact, no justification in law or in morals.

In other words, an arms embargo carried out by the United States, in the situation described by this authority, is not a neutral act but is actually an unneutral act, and any nation which would ask us to take such action would ask us not to continue to be neutral, but to line up with them as an ally. It is an act which could be complained of very properly by the enemy of that belligerent, and either side, if we failed fully to comply with the requirements which we voluntarily assumed, to force our own citizens to stop the shipment of arms, ammunition, and implements of war, would have a right not only to protest, but even to declare war against us because of that unneutral act.

The act of 1935 was never intended as a Neutrality Act. It was an act the purpose of which, as in the case of the pending Pittman proposal, was to keep us out of war, and it has been unfortunate that during the past few years the term "neutrality" has been used, because if we should strictly enforce the arms embargo, of necessity we would cease to be neutral, and we would of necessity become an ally of one or the other of the belligerent powers.

There is another source of danger involved in this kind of legislation. We are all familiar with contraband lists. We know that belligerent powers have the right, and they invariably assert it, to issue lists of contraband, and they say to the neutrals of the world, "This is a list of the articles which we consider to be contraband." They insist upon their right of visit and search, and in the event of the finding of contraband, the seizure and confiscation of the contraband articles. Unfortunately no two nations ever agree upon contraband lists. I have here, and I send to the desk and ask unanimous consent to have printed at this point, lists of contraband

issued by the British Government and the German Government at the outbreak of the present war.

The PRESIDING OFFICER. Is there objection?

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
September 13, 1939.

The Department of State has been informed by the British Ambassador that a proclamation has been issued in London specifying the articles to be treated as contraband of war by His Majesty's Government, and that these articles are as follows:

"SCHEDULE I—ABSOLUTE CONTRABAND

"(a) All kinds of arms, ammunition, explosives, chemicals, or appliances suitable for use in chemical warfare and machines for their manufacture or repair; component parts thereof; articles necessary or convenient for their use; materials or ingredients used in their manufacture; articles necessary or convenient for the production or use of such materials or ingredients.

"(b) Fuel of all kinds; all contrivances for, or means of, transportation on land, in the water, or air, and machines used in their manufacture or repair; component parts thereof; instruments, articles, or animals necessary or convenient for their use; materials or ingredients used in their manufacture; articles necessary or convenient for the production or use of such materials or ingredients.

"(c) All means of communication, tools, implements, instruments, equipment, maps, pictures, papers, and other articles, machines, or documents necessary or convenient for carrying on hostile operations; articles necessary or convenient for their manufacture or use.

"(d) Coin, bullion, currency, evidences of debt; also metal, materials, dies, plates, machinery, or other articles necessary or convenient for their manufacture.

"SCHEDULE II—CONDITIONAL CONTRABAND

"(e) All kinds of food, foodstuffs, feed, forage, and clothing and articles and materials used in their production."

DEPARTMENT OF STATE,
September 19, 1939.

The American chargé d'affaires in Berlin, Mr. Alexander Kirk, has reported to the Department of State that two amendments have been issued to the Prize Law Code which increase the articles and materials to be considered as absolute and conditional contraband by the German Government. The Government of the Reich has enacted and promulgated the following law:

"ARTICLE 1

"The following articles and materials will be regarded as contraband (absolute contraband) if they are destined for enemy territory or the enemy forces:

"1. Arms of all kinds, their component parts and their accessories.
"2. Ammunition and parts thereof, bombs, torpedoes, mines, and other types of projectiles; appliances to be used for the shooting or dropping of these projectiles; powder and explosives, including detonators and igniting materials.

"3. Warships of all kinds, their component parts and their accessories.

"4. Military aircraft of all kinds, their component parts and their accessories; airplane engines.

"5. Tanks, armored cars, and armored trains; armor plate of all kinds.

"6. Chemical substances for military purposes; appliances and machines used for shooting or spreading them.

"7. Articles of military clothing and equipment.

"8. Means of communication, signaling, and military illumination and their component parts.

"9. Means of transportation and their component parts.

"10. Fuels and heating substances of all kinds, lubricating oils.

"11. Gold, silver, means of payment, evidences of indebtedness.

"12. Apparatus, tools, machines, and materials for the manufacture or for the utilization of the articles and products named in Nos. 1 to 11.

"ARTICLE 2

"Article 1 of this law becomes article 22, paragraph 1, of the Prize Law Code.

"This law becomes effective on its promulgation."

The Government of the Reich on September 12, 1939, made an announcement relating to conditional contraband which read in part: "The following is accordingly announced:

"The following articles and materials will be regarded as contraband (conditional contraband) subject to the conditions of article 24 of the Prize Law Code of August 28, 1939 (Reichsgesetzblatt, pt. 1, p. 1585):

"Foodstuffs (including live animals), beverages, and tobacco and the like, fodder and clothing; articles and materials used for their preparation or manufacture.

"This announcement becomes effective on September 14, 1939."

Mr. SCHWELLENBACH. Mr. President, the English Government has, as I remember, four classifications of absolute contraband. The German Government has 12. There is no question but that arms, ammunition, and implements of war are contraband, and there is no question, as one will see if

he reads the list of absolute contraband, that there are many other articles which, so far as these belligerent powers are concerned, are in exactly the same category with arms, ammunition, and implements of war.

So long as our Government does not assume the responsibility, by means of an arms embargo, of saying that our citizens cannot ship the contraband articles, then the risk is taken entirely by our citizens, and, as I pointed out a few minutes ago, the responsibility of stopping them rests upon the belligerents. But when we assume the responsibility of saying to our citizens "You cannot ship these articles," as we have under the present Arms Embargo Act, then we also have the responsibility of seeing that our list is the correct one. We cannot make a mistake about that without arousing the antagonism of either or both of the belligerents.

We recognized that in the acts of 1935 and 1937. Subsection (d) of section 1 provides:

The President shall, from time to time by proclamation, definitely enumerate the arms, ammunition, and implements of war, the export of which is prohibited by this section. The arms, ammunition, and implements of war so enumerated shall include those enumerated in the President's proclamation No. 2163, of April 10, 1936, but shall not include raw materials or any other articles or materials not of the same general character as those enumerated in the said proclamation, and in the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva June 17, 1925.

In other words, under our present act we have given to the President not only the responsibility but the discretion of saying what shall be included under subsection (d) of section 1.

Let us suppose that he attempts to comply with the contraband lists of the two nations which have already issued them, England and Germany. Let us suppose, first, he includes only the four classifications of the English contraband list. He will immediately get into controversy with the German Government. Let us suppose he includes the 12 articles in the German list. He will immediately get into controversy with the English Government. Let us suppose he gets up a list of his own. Then he probably will get into controversy with both Governments, and having assumed the responsibility of preventing the export of these articles, as I stated before, we will have the complete responsibility of carrying through.

It is because of that fact that the overwhelming number of the group of men who, during the period of over 150 years, have studied this subject for the sole purpose of endeavoring to work out systems whereby neutrals in the same position in which we are today can stay out of a war, have come to the conclusion that there is no method which is more likely to get a nation into a war than the adoption of an arms embargo.

As I have said, we passed the law thinking that we had some insurance policy against getting us into war, but it is certainly our responsibility and duty to give some consideration to the experience of the nations during the years when neutral nations have attempted to stay out of controversies.

One of the great students of the question of international problems was John Westlake, and in 1870, I believe it was, in the course of a paper, he made this statement:

Clearly, any article to the export of which either belligerent government for the time being objects must be put on that list—

Reverting again to the contraband list—

or the object of the prohibition, the avoidance of offense, will not be attained. But what will the other belligerent say to the prohibition under those circumstances? If the prize courts of one party decide that to be contraband which the other party desires to import, and neutrals acquiesce, no offense is given by them, because they are merely passive. But it can hardly be imagined that a belligerent would be equally forbearing toward a neutral who, himself, at the dictate of the enemy, took the active step of preventing the export of an important article, which the first-named belligerent did not regard as properly within the prohibited category. Here is another respect in which the advocates of the prohibition have looked to the effect on one only of the belligerents, and in which the prohibition might expose the neutral to greater danger of war from the belligerent they have overlooked than he would have incurred without it from the one they have thought of.

The founder of the Institute of International Law, or certainly the man who has been given credit for founding it,

Charles Noble Gregory, has written many very interesting articles upon this precise question, and I wish to read a short excerpt touching upon this question from one of those articles:

Such a change of law and practice * * * magnifies the power of the prepared and predatory states, and it hinders and prevents the defense of the pacific states. It helps the carnivorous states, and it hurts the herbivorous states, as it were. It sharpens the fangs of the wolf, constantly used in attack, and it takes away the antlers of the stag, as constantly used for defense alone. It tends to embroil the nations and to destroy their balance and repose. It is a pernicious, unwise, and immoral restraint, and injurious change in a just rule.

It is submitted that our people have a right by all laws, international and municipal, to manufacture and freely sell to all comers munitions of war (except when restrained for special circumstances by special laws, as along our southern border); that this right is founded not merely on the long-established customs of all nations, including our own, on the opinions of statesmen, judges, and scholars and on the express agreement of the nations at the last Hague Conference, but it rests upon considerations of wise and necessary policy, salutary for all peaceful nations and hostile to predatory nations; that it ought therefore to be fully preserved and fully exercised for the welfare and safety of all nations seeking to avoid the extremes of militarism, and to devote themselves, without sacrifice of security, to pursuits of peace; that in adhering to, maintaining, and exercising such a right we pursue a policy hostile to no nation and vital to the safety of our own.

I wish to read further from Professor Westlake upon this precise question, which is the question referred to yesterday by the very eloquent Senator from Texas [Mr. CONNALLY]. Professor Westlake says:

Wars now are sudden as conflagrations in their origin and the advantages of preparation and initiative are immense. Why make them vastly greater? Why tempt to secret preparation and sudden aggression by greatly reducing the resources and avails of the defending power? Why aid the wolf and hamstring the lamb? Why, by a change of law and policy, aid and encourage the predatory policy and debilitate defense? Such change must stimulate war and discourage peace?

It is therefore opposed to the general interest of mankind and the present rule is wiser and more pacific tending to maintain the safety and stability of the nations whose main employments are in the peaceful arts.

Mr. President, I was very much impressed with what the Senator from Louisiana [Mr. OVERTON] had to say a few minutes ago. I wish I were gifted with the ability of rhetoric to express my desire for peace in so forceful a way as he is able to do it. At first blush it is apparently a perfectly logical thing to say, "I believe in peace; therefore I believe that our Government should stop the export of arms, ammunition, and implements of war to any belligerent nation." But when we come to a realization that by that act our Government takes on an obligation which the authorities at least agree is more likely to get us into war than any other policy or process that we might use, then certainly we must pause and hesitate. We must further realize that, so far as peace of the world as a whole is concerned, the adoption of such a policy by our Government or by any government certainly looks away from peace, and not toward peace, because it means that those nations in the world which prior to the time of the declaration of war had the facilities and the ambition to prepare themselves in order that they may suddenly attack nations less prepared, are the ones who will over the long period of years benefit by such a policy.

This is not a new question so far as our Government is concerned. I think it might be refreshing to consider for just a moment the attitude of some of our statesmen in the past upon this precise question. I saw in the newspaper of yesterday, I believe, that the very delightful, talented, and distinguished son and daughter of a former President of the United States are about to speak over the radio on the question of the repeal of the arms embargo, and I thought it might be interesting to put into the RECORD what their father had to say about that subject. I read from Theodore Roosevelt's book entitled, "Fear God and Take Your Own Part." He said:

The Americans who are now striving to prevent the sale of munitions of war * * * are committing the gravest possible offense against the cause of international right and of the interest of humanity.

Of course, if sales of munitions are improper in time of war, they are precisely as improper in time of peace, for in time of

peace they are made only with a view to possible war. To prohibit them is to put a premium upon aggressive nations manufacturing their own ammunition, for it is the nonaggressive nations that do not conduct great manufactories for munitions of war.

Quoting further from Theodore Roosevelt's book:

The warlike and aggressive nation chooses the moment of attack and is fully equipped in advance. If the nation assailed cannot replenish her supplies from outside, she must always maintain them in time of peace at the highest point or else expose herself to ruin.

From the standpoint of international law, as I have shown above, we have the absolute right to make such shipments. Washington and Lincoln—in fact, all our Presidents and Secretaries—have pre-emptorily refused to allow this right to be questioned. The right has been insisted upon by Germany in her own interest, more strongly than by any other nation, up to the beginning of the present war."

This article was written during the last war.

Continuing Theodore Roosevelt's statement:

From the standpoint of morality the justification is even more clear.

Going back to some of the prominent men in our history who have had under consideration this precise question, and the attitude which they took toward it, I wish to read first from Thomas Jefferson's writings when he was Secretary of State. The British Minister was asking our rather feeble Government, during the beginnings of our governmental history, that it refuse to ship arms and ammunition to his country's adversaries. Jefferson's letter was written on May 15, 1793. In it he said:

Our citizens have been always free to make, vend, and export arms. It is the constant occupation and livelihood of some of them. To suppress their callings, the only means perhaps of their subsistence, because a war exists in foreign and distant countries, in which we have no concern, would scarcely be expected. It would be hard in principle and impossible in practice. The law of nations, therefore, respecting the rights of those at peace, does not require from them such an internal disarrangement in their occupations. It is satisfied with the external penalty pronounced in the President's proclamation—that of confiscation of such portion of these arms as shall fall into the hands of any of the belligerent powers on their way to the ports of their enemies. To this penalty our citizens are warned that they will be abandoned, and, that even private contraventions may work no inequality between the parties at war, the benefit of them will be left equally free and open to all.

Alexander Hamilton also had the question under consideration. On August 4, 1793, he said this:

The purchasing within, and exporting from the United States, by way of merchandise, articles commonly called contraband, being generally warlike instruments and military stores, is free to all the parties at war, and is not to be interfered with.

Mr. Pickering, who was Secretary of State in 1796, had a controversy with the French Government about this question, and he answered the French Government in this way:

It was contended on the part of the French Nation, in 1796, that neutral governments were bound to restrain their subjects from selling or exporting articles contraband of war to the belligerent powers. But it was successfully shown, on the part of the United States, that neutrals may lawfully sell, at home, to a belligerent purchaser, or carry, themselves, to the belligerent powers, contraband articles subject to the right of seizure in transitu.

Henry Clay, when he was Secretary of State, got into a controversy, and he wrote a letter to the Minister from Mexico on April 6, 1827, in which he said:

The Government of the United States cannot undertake to punish its own citizens for disposing in another country of contraband articles in violation of the laws of such country. Neither * * * our own laws, nor, as is believed, those of any foreign country, make provision for the enforcement of the penal laws of another country, the general rule being that the laws of every nation are competent to vindicate their own authority.

President Pierce in 1854, in a message to the Congress, had this to say:

In pursuance of this policy, the laws of the United States do not forbid their citizens to sell to either of the belligerent powers articles contraband of war or take munitions of war or soldiers on board their private ships, for transportation; and although in so doing the individual citizen exposes his property or person to some of the hazards of war, his acts do not involve any breach of national neutrality nor of themselves implicate the Government.

I have here statements from five other Secretaries of State. At five other different times the question was raised by some foreign government with our Government. The statements

continue down to the time of the Secretary of State who certainly signified love of peace, the first secretary under President Wilson, Mr. William Jennings Bryan. Rather than take the time of the Senate I now ask unanimous consent that these statements may be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. LUCAS in the Chair). Without objection, it is so ordered.

The statements are as follows:

Mr. Marcy, Secretary of State, in a letter to Mr. Buchanan, Minister to England, on October 13, 1855, wrote:

"It is certainly a novel doctrine of international law that traffic by citizens or subjects of a neutral power with belligerents, though it should be in arms, ammunition, and war-like stores compromise the neutrality of that power. That the enterprise of individuals, citizens of the United States, may have led them in some instances, and to a limited extent, to trade with Russia in some of the specified articles is not denied, nor is it necessary that it should be, for the purpose of vindicating this Government from the charge of having disregarded the duties of neutrality in the present war.

Mr. Fish, Secretary of State, writing to Mr. Lopez Roberts, Spanish minister on April 3, 1869, said:

"Citizens of the United States have, by the law of nations and by treaty, the right to carry to the enemies of Spain, whether insurgents or foreign foes, all merchandise not contraband of war, subject only to the requirements of legal blockade. 'Articles contraband of war, when destined for the enemies of Spain, are liable to seizure on the high seas, but the right of seizure is limited to such articles only, and no claim for its extension to other merchandise, or to persons not in the civil, military, or naval service of the enemies of Spain, will be acquiesced in by the United States. This Government certainly cannot assent to the punishment by Spanish authorities of any citizen of the United States for the exercise of a privilege to which he may be entitled under public laws and treaties.'"

Mr. Foster, Secretary of State, writing to Mr. Bolet Peraza, Venezuelan minister, on September 22, 1892, said:

"The sale of arms and munitions of war, even to a recognized belligerent, during the course of active hostilities, is not in itself an unlawful act, although the seller runs the risk of capture and condemnation of his wares and contraband of war."

Mr. Olney, Secretary of State, writing to Mr. Dupuy de Lome, July 15, 1896, said:

"The citizens of the United States have a right to arms and munitions of war to all comers—neither the sale nor the transportation of such merchandise, except in connection with and in furtherance of a military expedition prosecuted from our shores, are a breach of international duty or give Spain any ground of complaint—and the denunciation of such acts as evidencing 'criminal conspiracy,' or as showing United States territory to have become a base of operations against Spain, is greatly to be deprecated as without sufficient warrant in law or in fact, and as therefore ill calculated to promote the harmonious relations of the two countries."

Mr. SCHWELLENBACH. On April 21, 1915, Mr. Bryan stated that the present indisputable doctrines of accepted international law would make an embargo against the shipment of munitions an unjustifiable departure from the principles of strict neutrality.

Mr. Justice Story, who had the reputation of probably being the outstanding authority upon international affairs of any member of our Supreme Court, in the case of the *Santissima Trinidad* (7 Wheat. 340) used the following language:

There is nothing in our laws or in the law of nations that forbids our citizens from sending armed vessels as well as munitions of war to foreign ports of sale. It is a commercial adventure which no nation is bound to prohibit and which only exposes the persons engaged in it to the penalty of confiscation.

It has been indicated here that the repeal of the arms embargo at the present time is an unneutral proposal, and that it is proposed to be done solely for the purpose of aiding one side and hurting another side. I can only speak for myself. So far as I am concerned my opposition to this arms embargo does not come from a weighting of the right or of the justice of the cause of either side in the present European controversy. I do not agree with those who say that Mr. Hitler is going to win this war. I do not agree with those who might indicate that there is any necessity for us doing anything for the assistance of England and France. I have no more respect for the totalitarian form of government which now exists in Germany and Russia than anyone else has. My own personal ancestry is not such as to cause me to have any deep-seated prejudice against the German people or the

German Government, of any particular prejudice in favor of those who may oppose the German people and the German Government. When I present this argument upon the question of the repeal of the arms embargo, I present it because I believe—and I am just as deep in my conviction upon this question as I have ever been upon any question—that we in this country have adopted, in all sincerity, in the desire to avoid war, a device which contains the possibilities of getting us into war to a much greater extent than any other device we might use.

There are those who say that for us to repeal the arms embargo at the present time would constitute an act of unneutrality upon our part; that war has commenced, and that, to use the common phrase, "You should not change the rules in the middle of the game."

Mr. President, I do not criticize anybody for phrase making. We all indulge in it. However, this is altogether too serious a time for indiscriminate phrase making. This is altogether too serious a time, and the lives of our people are too seriously endangered to have half truths, quarter truths, or almost no truth at all attract the attention and secure the support of the people just because the phrase may be attractive. This is a time in the life of the Nation when statesmanship requires a careful weighing of words. I do not think very much was added to the sum total of knowledge upon this subject by some of the phrases which have been rather blithely used during the past 2 or 3 weeks, and among them is the phrase, "You should not change the rules in the middle of the game."

The argument presented yesterday by the Senator from Michigan [Mr. VANDENBERG] and today by the Senator from North Dakota [Mr. NYE], and the Senator from Louisiana [Mr. OVERTON] is a complete rebuttal of that contention, because all three of them have now said that they want our law changed. They want us to adopt the Pittman resolution, perhaps with some modifications, but they want us to adopt the so-called cash-and-carry system, which was not a part of our law when the war started in Europe.

Mr. ANDREWS. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield.

Mr. ANDREWS. As a matter of fact, was not the joint resolution which the Senator is now discussing, and which contained the provisions referred to, introduced in July; and was it not under consideration before any war was declared between England and France and Germany?

Mr. SCHWELLENBACH. Yes; that is true. The debate has gone along on a very fine basis, and I do not say this in any sense of "I told you so" or anything else; but I call attention to the fact that those who are now saying that we should not change the rules in the middle of the game are precisely the ones who argued, just prior to the adjournment of Congress, that we should not take any action at that time, but should wait to see how things came out before taking any action.

I appreciate what the Senator from Florida has said. I think he is correct. Nevertheless, reverting to the discussion by the Senators to whom I have referred, they say, "We want to change the rules. We want to reinstate section 2. We want to strengthen the rules in reference to financial transactions." Such action would change the rules just as much as repealing the arms embargo, because it certainly would affect our relationship with the belligerent countries.

Then there is the further question whether or not there is any such danger which even needs discussing. The matter was discussed in the House Committee on Foreign Affairs on January 8, 1936, by Mr. Hackworth, counsel for the State Department. Apparently the same question was raised at that time with reference to the Ethiopian situation. Mr. Hackworth said:

So long as we apply our policy equally, I do not think either belligerent would have any just ground for complaint. We know that belligerents change their contraband lists from time to time as a war progresses. * * * If belligerents can change their position during the progress of the war, why cannot neutrals? This, of course, is subject to the condition that the neutrals must make their policy or their law apply equally to all the belligerents. It cannot be said, on the basis of law or reason, that a neutral must

determine upon its whole attitude or policy and course of action as regards a given war at the outbreak of that war. * * * This would in effect amount to placing the neutral in a strait jacket, so to speak.

We are not without precedent on the question of changing the rules. The first Neutrality Act of the United States was adopted on June 5, 1794, after the beginning of the then European war.

During the course of the war between Bolivia and Paraguay the Embargo Act of May 28, 1934, was passed and applied.

The Presidential statement of October 5, 1935, which put our 1935 act into effect so far as the Ethiopian situation was concerned, was certainly a change in our position after the war started.

In 1914 we had had an arms embargo against the two contending factions in Mexico—those of Carranza and Huerta; and on August 27, 1913, President Wilson appeared before the Congress and asked for the lifting of that embargo, which was done on February 3, 1914. No claim was ever made that the lifting of the arms embargo at that time was not neutral because it was a change in position after the war had started.

Germany itself certainly would be in no position to object, because three different times—on November 6, 1935, November 9, 1935, and November 18, 1935—Germany changed its embargo provisions in reference to Italy and Ethiopia.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield.

Mr. PITTMAN. Since the war began Germany has already changed her contraband list.

Mr. SCHWELLENBACH. That was pointed out by Mr. Hackworth in his testimony before the House committee.

Constantly during periods of war belligerents change their contraband lists. As those changes in contraband lists are made under the discretionary power given to the President under subsection (d) of section 1 of the present act, it certainly would be necessary for our President from time to time to change the lists therein provided for. So the present act itself gives to the President not only the power but the discretionary power, from time to time, to change our position.

Mr. GILLETTE. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield to the Senator from Iowa.

Mr. GILLETTE. The Senator has just referred to the testimony of Mr. Hackworth before the House committee. I wonder if the Senator has any information or recollection as to the attitude that was taken by Italy at that time with reference to the proposed changes, which attitude was later presented on the floor of the Senate by the distinguished chairman of our committee in 1937. Italy protested that such action would be considered by her as tantamount to a declaration of war. I wonder if the Senator has any recollection of that matter?

Mr. SCHWELLENBACH. While the Senator was absent from the Chamber that matter was rather thoroughly discussed by the Senator from Louisiana [Mr. OVERTON] and the Senator from Nevada [Mr. PITTMAN] in connection with the protest which was made, and the statement made by the Senator from Nevada at that time. My recollection comes from what I heard just a few minutes ago in the statement of the Senator from Louisiana, quoting from the Senator from Nevada, that the chief basis of Italy's objection was the fact of any embargo at all; that it was not fair as between Italy and Ethiopia, because of the fact that we had not previously furnished any of such things to Ethiopia, and therefore we were not taking anything away from Ethiopia, but that we had previously furnished such things to Italy, and were taking them away from Italy. That was the chief basis of Italy's objection.

The second argument against repeal is that it is immoral to sell arms, ammunition, and implements of war. In the first place, I think, in passing upon that question, we should recall the long list of American statesmen to whom I have adverted who had the specific question before them. Certainly no one could question the high moral standing of those gentlemen. The question of morality must embrace the consideration of the total result. If, as these authorities have pointed out, the

net result, so far as world peace over a period of time is concerned, is an increased number of wars, particularly wars in which aggressor prepared nations are attacking nonaggressor unprepared nations, then, much as we should hate the idea of questioning the thought of the possible immorality of selling arms and ammunition, we must take that situation into consideration.

The Senator from Idaho in his speech on Monday indicated that he felt that the danger involved was that Germany might take offense at what we did, and that therefore we should not repeal the embargo; and he even saw the possibility of Germany coming over and bombing some of our manufacturing plants. I fully recognize that we have a responsibility so to conduct ourselves as a neutral as not to give justifiable offense to any belligerent. That does not mean a guaranty that we will not always give offense to one or the other of the belligerents, because we cannot control their standards in the matter of being offended. But if there is one nation in the world that cannot object to the sale of munitions to another country by a neutral, it certainly is Germany. Germany during the time of the War between the States supplied munitions to both sides. Germany during the Turko-Italian War supplied munitions to Turkey. During the Balkan War both Germany and Austria were the principal sources of supplies to the different belligerents. A very similar situation to the one that some persons say exists at the present time prevailed at the time of the Boer War. When England had difficulty in South Africa, and the Boers, who were completely surrounded, appealed to Germany not to sell munitions to England, because, as they said, "England controls all the sources of supply; we are cut off, and it is unfair to us; it is unneutral to us," did the Germans stop selling to England? I should say not. They continued their sale of ammunition, munitions, and implements of war to England during all the period of that unfortunate controversy.

Mr. LUNDEEN. Mr. President, will the Senator yield there?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. SCHWELLENBACH. I will yield in a moment. And when Germany in 1915 or 1916 asked us not to sell munitions of war to England and France, our State Department prepared and made public a complete list of the arms, ammunition, and implements of war sold by the Germans and Austrians to Great Britain during the time of the Boer controversy. I ask unanimous consent that I may put that list in the RECORD at this point.

The PRESIDING OFFICER. Without objection, permission is granted.

The list referred to is as follows:

[From Neutrality and the Sale of Arms, by Charles Noble Gregory]

The Department of State retabulated the figures as to German and Austro-Hungarian sales of munitions to England during the Boer War, during much of which the African republics were so isolated. The figures given by it are as follows:

German exports of arms and ammunition to Great Britain

[Quantity 100 kilos]

Article	1899	1900	1901	1902
Explosives.....	4,342	6,014	5,147	3,645
Gunpowder.....	28	658	243	69
Gun barrels.....	12	366	21	133
Shot, of malleable iron, not polished, etc.....	30	43	38	-----
Shot (further manufactured), polished, etc., not lead-coated.....	-----	4	-----	-----
Shot, nickled or lead-coated, with copper rings, etc.....	-----	3,018	176	-----
Weapons for war purposes.....	-----	-----	18	2
Cartridges with copper shells and percussion caps.....	904	1,595	866	982

AUSTRO-HUNGARIAN EXPORTS OF ARMS AND AMMUNITION TO GREAT BRITAIN

Arms, exclusive of small arms.....	190	374	12	-----
Separate parts of guns.....	1	1	-----	-----
Small arms.....	2	3	80	5
Ammunition and explosives under tariff No. 346.....	1	7	16	51
Other ammunition and explosives.....	-----	-----	4	-----

Mr. SCHWELLENBACH. I now yield to the Senator from Minnesota.

Mr. LUNDEEN. If the Senator will permit, let me say that I have listened with much interest to his learned argument, but I am wondering why the Senator supported the embargo law which is now on the statute books? Why was it all right a few months ago and why is it all wrong now? Perhaps the Senator has already answered that question before I entered the Chamber.

Mr. SCHWELLENBACH. We really should have the Senator from Arizona [Mr. ASHURST] here to answer that question, which apparently is being submitted to each one of us who is talking upon this side of the subject. It was submitted to the Senator from Nevada a short time ago. The Senator from Arizona is most free and frank in his admission of inconsistency. I must be most free and frank in my admission of inconsistency—

Mr. PITTMAN and Mr. LUNDEEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Washington yield, and, if so, to whom?

Mr. SCHWELLENBACH. I should like to complete my answer. Then I will yield. I have not sufficient pride of opinion; I have not sufficient stubbornness in my system that when I believe I made a mistake I am not willing to correct that mistake if I think by doing so I can save the lives of a hundred thousand or more American citizens. That is the reason I have changed my position.

Mr. LUNDEEN. If the Senator will permit me, I am interested in the Senator's frank admission that he made a mistake, and I am wondering if he is making another one now.

Mr. SCHWELLENBACH. Mr. President, the Senator from Minnesota should appreciate the fact that we have been able, outside of some interruptions by him, to keep this debate upon the plane of a sincere belief upon the part of both sides that all Senators are trying to do the right thing. I hope the Senator will not further attempt to lower it from that high plane, because, from the point of view of the welfare of our Nation, it is extremely important that, no matter how we may decide this question, we shall not have dissension created in our own country over it. I have an answer which I started to give to the Senator from Minnesota, but I will not give it, because it would simply add fuel to the fire which he has attempted to start.

Mr. LUNDEEN. Mr. President, will the Senator permit me there?

Mr. SCHWELLENBACH. Yes.

Mr. LUNDEEN. The Senator may be entirely free to give the answer. I am not apologizing for any record of mine in connection with issues relating to European politics or in any international situation. I voted against the entry of the United States into the World War, and I am not backing out of the position I then took. I do not think we should engage in the war trade in munitions and arms. That is all. I am not reflecting upon the Senator. I think he has delivered a very learned argument and I am much interested in it; he has shown that he has gone into this question at great length; but I am just wondering, and I was asking, if the Senator had changed his position.

Mr. SCHWELLENBACH. I said I had changed my position; that I had made a mistake, and I had no objection to the Senator asking me the question. If he keeps on, I have an exceedingly good answer to him, but I hope he will not keep on.

Mr. LUNDEEN. I am very much interested to hear the answer.

Mr. SCHWELLENBACH. I have a little too much patriotism to indulge in that sort of debate on this particular question.

Mr. PITTMAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Nevada?

Mr. SCHWELLENBACH. I yield to the Senator from Nevada.

Mr. PITTMAN. Mr. President, adopting the language of the Senator from Washington, I wish to say that I think I made a mistake, but the mistake was as to the importance of

an embargo in keeping us out of war. I finally came to the conclusion I have come to after working with other Senators on the pending joint resolution, that that which will keep us out of war most surely, if anything will, will be to prevent the taking of the lives of our citizens by one of the belligerents. By keeping our citizens off ships is one way; by absolutely prohibiting our ships from dealing with belligerents is a second way; and by taking of title out of American citizens is a third but a lesser way. Having come to that conclusion, I say that I made a mistake as to the importance of an embargo on a few articles, and I am using that as one reason why I think we should repeal the embargo. I think also we should repeal it because of the advice of international lawyers. Practically all of them who have advised us on this subject have told us that, while it was legal for us to do it, they did not favor such a policy.

John Bassett Moore has been quoted here a great deal. John Bassett Moore, in testifying before the Foreign Relations Committee, that is, by sending a document to be read by Dr. Borchard, said there is no doubt whatever that a government has the legal right to place an embargo on the export of anything it wants to; but he also said, "I have never agreed with that policy," and the implication was he did not agree to it under any conditions. All the excerpts from statements by great international lawyers that have been read here in the last few days asserting that a change of our domestic laws after war has commenced is unneutral contains the statement "if such change will do an injury to one of the belligerents and aid the other." There can be no objection by any belligerent to changing any of our laws after war begins if the law bears equally on all belligerents. I know that. Now the question is whether the law that we passed does bear equally on all the belligerents. That is the only question, is it not? If it does not bear equally on all the belligerents, even the Senator from Minnesota would want it to bear equally on every belligerent. Is not that true? I know he would.

Mr. LUNDEEN. I agree to that.

Mr. PITTMAN. When we placed an embargo on arms and ammunition, it was argued on this floor that we took away from Great Britain its natural opportunities through the control of the seas, and we admitted it; and we were actually willing to take away that natural advantage, provided that after we did so it worked equally toward all other nations that might become belligerents.

Wise writers on international law told us that events would change so that we could not administer our law neutrally. We did not believe it and did not know it. We could not conceive of such a situation as exists in Europe today. We could not conceive of two countries in alliance, like Germany and Italy—there is no question that they are in alliance—one of them a belligerent, fighting, and the other a neutral, not fighting.

Mr. THOMAS of Utah. Mr. President—

Mr. PITTMAN. Just a minute. We could not conceive of any government—at least, I could not—acting as Russia has been acting lately, taking over a large area of conquered territory and still asserting that she is neutral, and still under an agreement with Germany to supply Germany with anything she wants. At the time we passed that measure we could not conceive that a country like Rumania, with a million available soldiers, could be a neutral—the law does not apply to neutrals—and still be under the domination of one of the belligerents, and yet we know today that that is a fact.

If our law stated that there should be an embargo as to every country in Europe, it might be fair; but nobody here is prepared to go that far, so far as I know. That would mean the complete destruction of our merchant marine. It would mean the complete surrender of our neutral rights. I do not know anyone who is willing to go that far. I myself am not, and I do not know how many votes such a proposal would get.

The other day, in the very short colloquy with the senior Senator from Idaho [Mr. BORAH], he admitted that situation. He said that everyone knew that Italy was in alliance with Germany, and that arms and ammunition and implements of war should not go to Italy. Everyone remembers that state-

ment. I said that under existing law the President has not any right to place an embargo on any government that is not warring. We should have to change the law, either by saying that all the neutrals of Europe should be embargoed or by saying that any neutral who the President of the United States had proof was in alliance with one of the belligerents, or had an agreement that it would supply to one of the belligerents anything that that belligerent wanted, or was in a conspiracy to supply something to a belligerent, must be embargoed; but the law does not provide for that.

Now, the distinguished Senator from Idaho says to the Senator from Nevada, "If the law has to be changed, let us change it." I said I yield to the brilliancy of the Senator from Idaho. He said that if the Senator from Nevada will sit down with him in a room for a few minutes, we can come out with an amendment that will correct the situation. I cannot think of such an amendment, and it has not been suggested to me. It is admitted, however, that the embargo prevents any implementation of war from getting to Great Britain, because there is no neutral next to her to slide it over the border. It is admitted that it may go to Italy and may be slid over the border; that it may go to Russia and be slid over the border; that it may go to Rumania and be slid over the border; and there is not any power in the United States Government to stop it under the law that exists today.

Therefore, I say that the same reasons which caused me to vote for the embargo as a legal proposition will cause me now to wipe it off the books, because it is not a neutral proposition.

Mr. SCHWELLENBACH. Mr. President—

Mr. LUNDEEN. Mr. President, will the Senator permit me to interrupt him for one moment at this point?

Mr. SCHWELLENBACH. No; I am sorry.

Mr. LUNDEEN. Just for a brief statement to the Senator from Nevada.

Mr. SCHWELLENBACH. I am sorry, but I cannot yield. I have to try to conclude my remarks by 5 o'clock.

Mr. LUNDEEN. I want to thank the Senator from Nevada for his able statement.

Mr. SCHWELLENBACH. Mr. President, before this discussion digressed to other matters, I was discussing the position of Germany in objecting to the enactment of this joint resolution, as was indicated by the Senator from Idaho [Mr. BORAH] on last Monday.

There is another reason why Germany cannot object upon the ground that this joint resolution is a change of the rules after the game has started, because on two very important occasions the German Government asked for precisely the same kind of a change, although the converse of it, once from the English Government and once from the American Government.

During the Franco-Prussian War, after the commencement of the war, while hostilities were being conducted, the German Government asked the English Government not to ship arms, ammunition, and implements of war to France.

During the last war, prior to our entry into it, the German Government asked our Government to stop the shipment of arms, ammunition, and implements of war to the Allies.

So if ever a nation was estopped from raising any objection, even though this were a change in the rules after the game has started, certainly Germany is not in a position to raise that issue; and certainly Germany is not in a position to object to the sale of arms, because, with one or possibly two exceptions, every great German student of this subject has agreed with the conclusion that a nation should be entitled to export arms and munitions. Of course, it is a natural thing, because, more than any other nation in the world, since Germany reached her industrial power, she has been an exporter of arms, ammunition, and implements of war.

Quoting again from James W. Garner upon this precise question, I read:

Among German writers, there has been almost the same unanimity of view in favor of the right of neutrals to sell arms and munitions to belligerents. Perels, at one time legal adviser to the German Admiralty, referring to the "oft-discussed question" as to whether a neutral state is obliged to prevent its subjects from loaning money to belligerents or furnishing them with war materials, etc., says: "It cannot be doubted in fact that unless there

is a notorious favor shown toward one of the belligerents there is no obligation to forbid the assistance." Klüber likewise holds that "ordinarily a belligerent does not have the right to require a neutral state to abstain from trade with his enemy" and that "the law of nations does not prohibit neutrals from trading in articles of merchandise which serve the immediate military needs of belligerents, provided there is no design to favor one of the belligerents as against the other."

Among the German jurists who have defended most strongly the right of neutrals to engage in contraband trade may be mentioned Professor von Bar, of Göttingen. * * * He says:

"The fact that two states engage in war with each other authorizes neither to demand that all the relations which exist between his adversary and a neutral state be suspended, even though the adversary derives an advantage from those relations. If two states go to war, the world is not bound to suspend its customary pursuits in order to prevent one of the belligerents from deriving an advantage or sustaining an injury in consequence of those activities."

"The contrary assumption would be to hold that belligerents as such have a right to dominate the rest of the world. What a belligerent may lawfully demand is only that the relations between a neutral and his adversary shall remain as they were before. Consequently the subjects of neutral states may continue to maintain commercial relations with belligerents as formerly, and if they manufacture arms and munitions, and have before the war sold them to everybody, they may continue to do so after the war even to belligerents. It is wrong, therefore, to denounce, as has often been done, the sale of arms by neutrals to belligerents as a business which pollutes the hands and honor of neutral countries. This phrase has no more force than a tirade launched against a fire-insurance company on the ground that it is engaged in a miserable business which draws profit from the misfortunes of others."

I do not personally agree with the last analogy, but I present it to you as a statement by a man who is recognized as probably the leading German authority upon this subject. I have selected German authorities solely because of the implication the other day by the Senator from Idaho [Mr. BORAH] that if we should take this step Germany was the one that might object and might come over here and bomb our factories.

Geffcken—

Another German writer—

who considers the subject of trade in arms and war material at greater length than most German writers, concludes that "it is well-established by international law that the sale and exportation of contraband by the subjects of neutral states is no violation of their neutral duties." After reviewing at length the opinions of the text writers, the vast majority of whom pronounce in favor of the legitimacy of such trade, Geffcken remarks that, in view of this array of authority, the contention of the German Government in 1870 that England was bound to prohibit the sale of arms and munitions of war to agents of the French Government naturally excited astonishment.

Mr. President, I wish at this point to insert in the RECORD a list of prominent German writers upon this subject, with the names of the books which they have written. All of them reach the conclusion which, as I have said, is almost universal among German writers on the subject. There were two about whom there was some question. One of them argued that it was all right to send a small amount of arms but that it was not right to send a large amount of arms, the quantitative theory of correctness in the sale of munitions.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington?

There being no objection, the list was ordered to be printed in the RECORD, as follows:

[From *International Law in the European War*, by James W. Garner]

Von Liszt, *Das Völkerrecht*, fourth edition, page 362.

Martens, *Precis de Droit des Gens*, volume II, section 315.

Lehman, *Die Zufuhr von Kriegskonterbanden Waren*, page 53.

Schmalz, *Das Europäische Völkerrecht*, pages 286-287.

Marquardsen, *Der Frent*, Fall, page 37.

Schramm, *Das Prisenrecht in Seiner neusten Gestalt*, section 10.

Einicke, *Recht und Pflichten der neutralen Mächte in Seekriege*, page 99.

Hold von Ferneck, *Die Kriegskonterbande*.

Saalfeld, *Handbuch des Positiven Völkerrechts*, section 133.

Mr. SCHWELLENBACH. Mr. President, as was pointed out a few moments ago in the quotation from Theodore Roosevelt, if it is wrong to sell arms in time of war, as under our present law, if the so-called arms embargo has as its basis such a foundation in morality that it should never be touched, then

it is equally wrong to sell during times of peace, and the law should provide that, not when the President finds that a state of war exists between two nations, but at all times, we should refuse to sell arms to any nation.

John Bassett Moore very definitely points out those who advocate an arms embargo during times of war never advocate that it become effective during times of peace. They are never willing to go that far, and if an arms embargo is to be effective insofar as the nations who intend to attack other nations are concerned, it should be in effect during times of peace.

I read from Moore's Digest of International Law, page 970:

The mere act of furnishing by the subject of a neutral state a belligerent with munitions of war, does not involve such neutral state in a breach of neutrality. (1) Between selling arms to a man and indictable participation in an illegal act intended to be effected by the vendee through the instrumentality of such arms there is no casual connection. The miner or manufacturer, to appeal to an analogous case, may regard it not only as possible but as probable that his staples, when consisting of weapons or of the materials of weapons, may be used for guilty purposes, but neither miner nor manufacturer becomes thereby penally responsible. (2) To make the vendor of munitions of war punishable would make it necessary to impose like responsibility on the manufacturer; and if on the manufacturer, then on the producer of the raw material which the manufacturer works up. In each case the thing made or sold is one of the necessities of war. In each case the producer or vendor knows that the thing produced or sold will probably be used for warlike purposes. Hence, in time of war, not only would neutral sales of munitions of war become penal, but penal responsibility might be attached to the production of any of the materials from which such weapons are manufactured. (3) Nor would this paralysis be limited to periods of war. A prudent Government, long foreseeing a rupture, or preparing in secret to surprise an unprepared foe, might take an unfair advantage of its adversary were this permitted, by purchasing in advance of the attack all munitions which neutral states might have in the market; but, on the theory before us, a neutral state could not permit this without breach of neutrality, since to permit such a sale would be to give a peculiarly unfair advantage to the purchasing belligerent. Hence, if such sales are indictable in time of war, they are a fortiori indictable in times of peace.

To carry the matter through to a logical and consistent conclusion, those who advocate that during time of war we should prohibit the exportation of arms and munitions should also advocate prohibition of the export of those things which go to make up arms and munitions. They talk about munitions makers, and I do not criticize anyone for talking about munitions makers. The profits they made out of the last war were outrageous, and with the adoption of the pending joint resolution it is not only my hope but my intention to be of service, if I possibly can, in bringing about such amendments to our tax laws as will make it impossible for the munitions makers to make profits out of these transactions and to retain any unreasonable amount of those profits.

Henry Ford makes automobiles. Some of the automobiles he makes entirely at his plant in Detroit. As to some of them he makes the parts and sends them out to Seattle and Los Angeles and I presume to many other parts of the country where he has assembly plants. Would anyone contend that Henry Ford was not an automobile manufacturer if he did not have an automobile plant in Detroit? Can anyone contend that one who makes all of the parts of a gun, or an airplane, or a shell, or anything else, and sends them somewhere else to be assembled is not the manufacturer of munitions? It is easy for us to see it in the case of Henry Ford, because we know he is an automobile manufacturer and the fact that there are various places of assembly we know does not make him any less an automobile manufacturer. Yet no effort is made to have all of the rest of these things which go to make up the parts of arms, ammunition, and implements of war prohibited from export, but only the completely manufactured products.

I say, therefore, that there can be no basis for the fear which was expressed by the Senator from Idaho that Germany would object on two grounds, first, that we changed our law too late, and, secondly, that we should not export to England and to France, that Germany was suffering by such export, because in the first place on both grounds Germany is estopped from raising an objection, she having done each of the things herself. In the second place, the precedents for

changing laws without destroying the status of a neutral after the commencement of belligerency have been too well established for anyone seriously to argue the question at the present time.

The next argument made is also in the form of a phrase, that is, "you cannot become an arsenal for one side without being the target for the other." Once again, in the best of spirit, because I have the highest respect and regard for the Senator from Michigan [Mr. VANDENBERG], who coined that very euphonious phrase, I submit that this is too serious a time for indiscriminate phrase-making, when the phrase does not happen to contain any very large element of ultimate truth as to the result.

Why do I say that the phrase is not a correct one? In the first place, the facts of history prove that it is not a correct phrase. A serious, fair-minded consideration of the history of the world will not furnish a single instance to support the phrase.

In the second place, as I pointed out earlier in my remarks, since 1758 the neutral nations of the world, having as their chief motive a desire to stay out of wars in which they were not interested, have refused to adopt arms embargoes, because they knew that they might more likely involve them in war than any other device which could be imagined, and the phrase flies in the face of all that history.

The neutral nations of the world are the small nations, usually, in discussions about what the rules are to be, and does anyone think that if the phrase were a correct one, those nations would have so vigorously and consistently insisted upon their right? It was not because they wanted to become targets for any nation that they insisted upon it.

I know that in the last few years a very attractive theory has been announced. I say that it is attractive because it has attracted considerable attention.

That was the theory that we got into the last war because of the fact that we manufactured munitions. I do not believe that any fair-minded person can read the history of the last war and arrive at that conclusion. The Senator from Nevada discussed it the other day, and I think that anyone who studies what went on between 1914 and the declaration of war in 1917 must agree with his conclusion that the proximate cause of our entrance into that war was the killing of our people on the high seas by the German submarines. I recognize the part which the extension of credit and the building up of a general war boom in this country played, but from reading, I think, all of the books that have been written by the various people who were close to and who had an opportunity to have access to Woodrow Wilson, I know that so far as he was concerned nothing else had any effect upon him except that one thing. As late as January 1917, he said with the highest degree of impatience that we were not going to get into that war.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield.

Mr. WILEY. I ask the Senator to yield simply for one observation. I have listened these last few days to the debate on the floor of the Senate, and today I asked for some information which I think relates itself to the point the Senator is discussing. I found out that from 1914 until we got into the war, only 13 percent out of 100 percent of what we exported is classified under the heading of munitions and implements of war.

Mr. SCHWELLENBACH. I thank the Senator from Wisconsin.

To my mind the most important document which I have read in an effort to try to satisfy myself what got us into the war, is the official report by the German Admiralty made to the Kaiser on December 22, 1916. I have before me a book entitled "Official German Documents Relating to the World War." These were not propaganda documents. They were not documents issued for the purpose of getting us in on one side or the other, or anything of that kind. They were documents which were made public after the conclusion of the war as the result of an investigation by the Weimar Republic after the termination of the rule of Germany by the Kaiser and the Hohenzollerns.

On December 22, 1916, the German Admiralty in a report which in this book goes from page 1219 to page 1277—I give the Senate the figures so they can see how long the report is—presented to the German Government the case in favor of the resumption of ruthless submarine campaigns. I shall not read the whole report. I shall simply read a few lines from the first part of it:

BERLIN, December 22, 1916.

YOUR EXCELLENCY: I consider that the time has come to marshal the investigations and conclusions of the admiralty staff with regard to the questions incidental to the final decision as to the U-boat war and to make a full statement concerning the stand taken at this time, thus preparing a foundation upon which a final determination can be based. The situation is such that this decision cannot be put off any longer. It is my conviction that it should be decided to launch a ruthless U-boat war; that is, a U-boat war in the course of which every enemy and neutral ship found in the war zone is to be sunk without warning. In support of the correctness of my views on the subject, I refer to the following comments.

As I said, I am not going to frighten Senators even by starting to read from the report—it is so long. But I think that no one in the world can read that document and come to any other conclusion than that the sale of munitions had absolutely nothing to do with the starting of that U-boat campaign, which resulted in our getting into the war.

Let me read a few of the headlines on it. It started out with the former U-boat campaign and how it stopped.

The next section deals with the food situation of England, under the following headings:

1. The grain supply.
2. Other means of sustenance.
3. The peril, and the requirements of the people.
4. The policy of the government.

This is the English Government.

5. The prospects for effective relief.
6. The shortage in raw materials.

That is in England.

7. Conclusions.

About the condition in England.

I want to read part of the last section.

7. CONCLUSIONS

If we marshal those facts which go to make up the general situation with regard to the provisioning of England, and consider them from the standpoint of the U-boat war, the following deductions result: That a U-boat war launched in the immediate future, by February 1, 1917, at the latest, would take place under the most favorable conditions which could be possibly imagined for the purposes of success. Want and enhancement of prices dominate the entire situation. So that England is faced with the necessity of using more than twice as much cargo space as has been necessary up to the present time for importing the most important of foodstuffs, wheat; and it is open to very serious doubt, whether the export deliveries at the disposal of England and its Allies are sufficient to meet the demand up to the end of the harvest year. The U-boat war would have a period of from 5 to 6 months before the new harvest in the United States could come in as a working factor, and from 6 to 7 months before the domestic harvest of the Allied countries comes in sight. Whatever might be accomplished in the way of organization to lighten the difficulties of the question of supply would require far more time than would be available by the beginning of February.

That was the conclusion about conditions in England. And all of the report up to that time involved the conditions in England.

Then follows a discussion about possible tonnage to take these things to England, under the following headings:

1. The cargo space at present available.
2. The increase in freight rates.
3. The "cargo-space famine."
4. Congestion at the ports.
5. New ships.
6. Prohibition against the importation of dispensable commodities.
7. The taking over of shipping commerce by the state.
8. The effects of the unrestricted U-boat war.

In all of this whole discussion, which as I said, covers a considerable portion of this book, there are only two short paragraphs which have any mention of the shipment of munitions by the United States, and those do not mention the munitions which would have been shipped. The report was

considering the question of the United States getting into the war and the effect upon munitions if the United States were in the war.

No fair-minded person, I say, can read that report upon which the German Government based its decision to start the ruthless unrestricted U-boat campaign on February 1, 1917, and come to the conclusion that there is the slightest possible basis for the fancy phrase—

You cannot become an arsenal for one side without becoming a target for the other.

Because that is the only instance in which it is even contended that such a thing is true.

Another phrase has also attracted the attention of our people. It was the one given over the radio by the very distinguished and brilliant and eloquent Senator from Idaho [Mr. BORAH]:

This is the first step toward war.

All the arguments and all the oratory since have been based upon it. I know that neither the Senator from Idaho nor anyone else in opposition to the pending joint resolution consciously believes or consciously argues that those of us who believe in the joint resolution have any intention of taking this Nation toward war. If we did have, certainly we would not have presented the Pittman joint resolution, which not only is not a step toward war but, in my opinion, is the most orderly and complete retreat from war that any nation has ever taken.

Mr. President, what does this measure do? In order to get it briefly into the Record, I want to read this description of it:

It is a code of restrictions upon our citizens so as to prevent any one of us from so conducting ourselves as to endanger all of us. It prohibits our ships from traveling to belligerents or from making deliveries to belligerent ships. It prohibits goods owned by Americans being shipped to belligerents. It prohibits our ships and our citizens, even though destined for neutral countries, to travel through the dangerous submarine and mine-infested areas. It prohibits our citizens from traveling on ships owned by belligerents. It prevents the arming of our merchant vessels. It prevents our Government and our people from loaning money or extending credit to belligerent governments. It so strengthens the duties of the Munitions Control Board as to give Congress such a check on munitions as to prevent our being dragged into war by munitions sales. It takes away from the President all of the important discretionary powers granted in the 1937 act. There is not a word in it giving the President power to name aggressors.

Mr. President, I receive mail each day accusing the President of the United States of wanting to take this first step to get us into war, and then plan on other steps. An analysis of the Pittman joint resolution will show that the President's power has been almost completely depleted by the Pittman measure when compared with the present law. Do you think that if we had some ambition to take the first step toward war we would have attempted to write into our statutes the most completely restrictive statute that this or any other nation ever saw to prevent us from getting into war?

So I believe the objections which have been advanced to the repeal of the arms embargo, when analyzed in the light of the experience of this country and the experience and knowledge of the neutral nations of the world, fall to the ground. It is not a changing of rules after the game begins. It is not the first step toward war. It is not a matter of becoming an arsenal for one side with the danger of becoming a target for the other. It is a careful, painstaking effort to try to keep this Nation out of war.

Mr. President, I wish to conclude my remarks by saying that we all have the same objective. I know something about the results of the last war, I think possibly to as great an extent as any other Member of this body. Because of an active interest in veterans' affairs since the last war, I have had the opportunity to visit veterans' hospitals and deal with the problems of the individual veterans, not from this end but from their end, in their own homes.

Mr. President, this Nation is going to stay out of the war. The determination upon the part of the American people for peace is not going to relax. We know the lesson that we learned. I am not one to cast aspersions upon our participation in the last war. I am not in a very good position

to do so. I think we went into that war honestly, with the belief that it would be possible for us, through our methods, to assist in ending wars and making the world safe for democracy. We now find how vain was our hope in that regard. The people of this country know that they were burned once. The period of time since the burning is too short for them to be burned again.

We shall be told that it will be necessary for us to save democracy. I do not subscribe to that theory. I think the nations of Europe will settle their own problems, and that when they are through settling their problems we shall be in a much better position to be of assistance to them in arriving at a permanent peace if we maintain our own economic conditions at a proper level in this country.

I do not believe either side will win the war. I think both sides will lose the war; and they will be so prostrate that they will need our assistance in rebuilding civilization in the world. When the end of the war comes it will be the hope of the world that somewhere a strong democracy will exist. That place should be here; and our task, not merely in passing upon this piece of legislation, but in all our acts, deeds, and thoughts during the period of the belligerency, must be to see that we maintain ourselves out of the conflict, in order that when the war ends we may render the assistance of a strong democracy in rebuilding true democracy throughout the world.

RECESS

Mr. PITTMAN. Mr. President, it is rather late. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 53 minutes p. m.) the Senate took a recess until tomorrow, Friday, October 6, 1939, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

THURSDAY, OCTOBER 5, 1939

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore, Mr. RAYBURN.

Rev. Clifford H. Joep, pastor of the Ninth Street Christian Church, Washington, D. C., offered the following prayer:

Divine Father, by whom men and nations are endowed with positions of trust and responsibility, help us to give to our country the service of unselfish lives. Help us to keep our promise to the world that this shall be the land of freedom, brotherhood, and justice for all. Make us brave, truthful, and fair. Keep us free from boasting, conceit, and hypocrisy. Make our people noble and great-hearted, like unto Thyself, an honor to our country and a light of hope to a bewildered world. May the deliberations of this day make perfect Thy holy will, and whatever the decision in this momentous hour, may humanity be served. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Monday, October 2, 1939, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. St. Claire, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 30. Concurrent resolution relative to the printing of additional copies of hearings on S. 3474 (neutrality), Seventy-fourth Congress, second session.

The message also announced that the Senate had adopted the following resolutions:

Senate Resolution 189

IN THE SENATE OF THE UNITED STATES,
October 3, 1939.

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. THOMAS S. McMILLAN, late a Representative from the State of South Carolina.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased, the Senate do take a recess until 12 o'clock m. tomorrow.

Senate Resolution 190

IN THE SENATE OF THE UNITED STATES,
October 3, 1939.

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Hon. M. M. LOGAN, late a Senator from the State of Kentucky.

Resolved, That a committee of nine Senators be appointed by the Vice President to take order for superintending the funeral of the deceased Senator.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased, the Senate do now adjourn.

PRINTING OF ADDITIONAL COPIES OF NEUTRALITY HEARINGS

Mr. JARMAN. Mr. Speaker, I call up a concurrent resolution (S. Con. Res. 30) and ask unanimous consent for its immediate consideration.

The Clerk read as follows:

Senate Concurrent Resolution 30

Resolved by the Senate (the House of Representatives concurring), That in accordance with paragraph 3 of section 2 of the Printing Act, approved March 1, 1907, the Committee on Foreign Relations of the Senate be, and is hereby, authorized and empowered to have printed for its use 500 additional copies of the hearings held before said committee during the Seventy-fourth Congress, second session, on the bill (S. 3474) relating to neutrality.

The SPEAKER pro tempore. Is there objection to the present consideration of the Senate concurrent resolution?

Mr. KRAMER. Mr. Speaker, reserving the right to object, how many of those copies will be available for Members of the House? We have been trying to get copies, and perhaps the public or some other person comes in and gets them all before there can be any distribution of them.

Mr. JARMAN. It only provides for the printing of 500 additional copies.

Mr. KRAMER. But there are 435 Members of the House. Is each Member to have one copy, or will we be able to get any after the 500 are printed?

The SPEAKER pro tempore. Since examining the resolution, the Chair will state that the resolution provides for 500 additional copies of the hearings held before the committee for the use of that committee.

Mr. KRAMER. Mr. Speaker, I offer an amendment to make it 5,000 copies, so that each Member of the House may be able to receive copies. We are all receiving requests and we would like to send them out to our constituents.

The SPEAKER pro tempore. The Chair suggests to the gentleman from Alabama [Mr. JARMAN] that he withdraw his request.

Mr. JARMAN. I withdraw the resolution, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the resolution is withdrawn.

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. MAPES. Mr. Speaker, I ask unanimous consent that the gentleman from South Dakota [Mr. MUNDT] be permitted to address the House for 20 minutes today after the other special orders of the day.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

GENERAL PERMISSION TO EXTEND REMARKS

Mr. RANKIN. Mr. Speaker, I ask unanimous consent that all Members may have until October 9 to extend their own remarks in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. RICH. Mr. Speaker, reserving the right to object, of course I am in sympathy with Members extending their own remarks, but if you will look at the RECORD since this special session has been called the people of this country would not recognize it as a record of the transactions that have transpired in the Congress. It is simply a record of newspaper articles, of editorials, of everything in the country.